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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 57th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 27 April 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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(a) TORTURE AND DETENTION

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Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.99-13187 (E)

The meeting was called to order at 3 p.m.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(agenda item 11) (continued) (E/CN.4/1999/L.55/Rev. 2 and L.64)

Draft resolution on promotion of the right to democracy (E/CN.4/1999/L.55/Rev.2)

1. Mr. BROWN (United States of America), introducing the draft resolution on behalf of its sponsors, who were currently 46 in number, said that it recognized the fundamental point that democracy was itself a human right and noted the indispensable role of democratic participation in maintaining all human rights. Democracy was both a means to promoting human rights and an end in itself.

2. Article 21 of the Universal Declaration of Human Rights recognized the right to take part in the government of one's country. The right to democracy also encompassed the associated rights essential to effective political participation, including freedom of opinion and expression, peaceful assembly and association and the freedom to seek, receive and impart information through any media. Free and fair elections, although the basis of any free society, did not alone suffice to protect the rights of people. In a broader sense, therefore, the enjoyment of democracy depended upon the rule of law and the legal protection of citizens' rights.

3. A growing number of countries throughout the world were moving to promote and protect human rights, and they had learned that the democratic process was the best guarantee therefor. Where democracy was absent, human rights would suffer, and social tensions mounted when there was no legitimate process for addressing them. When people were denied the right to political participation, their economic, social and cultural rights were jeopardized as well.

4. Half a century after the Universal Declaration of Human Rights and on the eve of the new millennium, it was time that all members of the Commission supported the notion that the right to democratic governance was not just a privilege, removable at the will of a Government, but a fundamental human

right. The draft resolution recognized that the right to democracy was at the centre of an indivisible and interdependent body of all human rights, and his delegation hoped that the Commission would adopt it by consensus.

5. A number of changes had been made to the text of the draft resolution. In the second preambular paragraph, the word "to" had been replaced by "of". Paragraph 6 should refer to paragraph 2, not paragraph 1, of the resolution. The phrase "including the right to development" had been inadvertently omitted from the Spanish version of paragraph 3. Lastly, in an effort to reach a consensus text and at the request of one delegation, the sponsors had agreed to add the words "and vice versa" at the end of paragraph 1.

6. Mr. AGUILAR URBINA (Secretary of the Commission) said that the representatives of Bangladesh, Colombia, Czech Republic, Germany, Italy, Liberia, Nepal, Philippines, Republic of Korea, Rwanda, Sri Lanka, Tunisia and Venezuela and the observers for Albania, Australia, Bulgaria, Costa Rica, Denmark, Dominican Republic, Estonia, Honduras, Israel, Netherlands, New Zealand, Nicaragua, Paraguay, Portugal, Switzerland, the former Yugoslav Republic of Macedonia and Uganda had become sponsors of the draft resolution.

7. Mr. H.K. SINGH (India), speaking in explanation of vote before the voting, said that democracy was the best guarantor of human rights and for the people of India, the world's biggest democracy, the natural and only acceptable form of government. It was democracy more than anything else which permitted each component element of the vast and diverse Indian society to find expression and self-fulfilment. Democracy was essential for the full and effective realization of all human rights and fundamental freedoms. His delegation thus supported in principle the initiative of the delegation of the United States of America in putting forward a draft resolution on the vital role of democracy in the promotion of human rights.

8. There had been considerable discussion on issues related to the draft resolution's title and whether or not a new right was being established. In his delegation's opinion, that was not the objective of the draft resolution nor should it be. The oral changes made by the representative of the United States of America to paragraphs 1 and 2 had made that clear. His delegation would have preferred the title to have been changed as well; ideally, it should read: "The promotion of democracy as an indivisible element in the effective realization of human rights, the rule of law and development". The existing title tended needlessly to politicize an essentially promotional concept, and raised questions and legal issues that found little support in international human rights instruments.

9. His delegation wished to make it clear in that regard that there were no prescriptive or single model of democracy, and that all peoples had the right freely to determine their own political and constitutional systems in accordance with their right of self-determination. Democracy was a form of government which arose from the will of the people. It could not be imposed, especially from the outside.

10. His delegation considered that the amendments proposed by the delegation of Cuba (E/CN.4/1999/L.64/Rev.4) would add to the value of the text. India was a developing country and his delegation was firmly convinced that the

rights of democratic governance referred to in paragraph 2 included the promotion and realization of economic, social and cultural rights and the right to development. It hoped that the draft resolution could be adopted by consensus but, if a vote were called, it would support the amendments proposed by the delegation of Cuba.

11. Mr. AKRAM (Pakistan) said that his delegation had participated in the preparation of the draft resolution and had made a number of suggestions to improve its text. Generally speaking, his delegation welcomed any proposal that sought to underline the principle that governance should be in accordance with the norms of democracy and free will, but democratic governance must first and foremost take account of the traditions and culture of a country.

12. His delegation had proposed the inclusion in the chapeau of paragraph 2 of a reference, taken from the Vienna Declaration and Programme of Action, stating that the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind. It was regrettable that the sponsors had not been able to accept that proposal.

13. It was also his delegation's belief that any provision or proposal relating to democracy must bear in mind the attempts by certain Powers which were occupying lands and territories to use the façade of elections to justify such occupation. It had therefore suggested the inclusion of a separate paragraph underlining the fact that elections held under foreign occupation or colonial domination could not be considered to be free and fair or a genuine exercise of democratic rights. Regrettably, sponsors had not been able to incorporate that proposal either.

14. His delegation had, however, been encouraged by the inclusion of the second preambular paragraph recalling the right of all peoples to self-determination, a reference which to some extent compensated for the absence of any reference to the suppression of the right by foreign occupation. However, it was concerned that the change to the second preambular paragraph just made orally by the representative of the United States of America had altered the meaning of the right of self-determination and would have preferred an exact reproduction of the words used in article 1.1 of the two International Covenants of Human Rights so that the paragraph would begin: "Recalling that all peoples have the right of self-determination, by virtue of ...". Without that change, the principle of self-determination itself was being called into question.

15. His Government had some questions about the concept of a right to democracy. While believing in and being committed to democracy, it wondered whether it was legitimate or wise to propound something that could later be promoted as a legal concept. He hoped that that was not the intention of the sponsors, and that the phraseology of "the right to democracy" was being used more in a political and ethical sense than in a legal one. If a vote were held on the amendment proposed by the delegation of Cuba to the title of the draft resolution, his delegation would vote for it.

16. Mr. VALENCIA (Ecuador) said he understood the practical difficulty of defining the scope of the concept of democracy and establishing a universal model. The title of the draft resolution reflected the broad view that democracy should cover all civil, political, economic, social and cultural rights and the right to development.

17. Mr. SALINAS RIVERA (Chile) said that, for his country, democracy not only had a formal political aspect but also economic, social and cultural ones. Chile fully supported those who promoted democracy as a political system because it was the only system that encouraged respect for all human rights and the development of peoples. However, his delegation would have preferred a debate on the subject and regretted that not enough time had been made available for one. He hoped that, at future Commission sessions, discussion of the promotion of democracy and its connection with the realization of human rights would be allocated the necessary time.

18. Mr. PADILLA MENÉNDEZ (Guatemala) said that the concept of democracy was firmly linked to popular participation and the absence of an authoritarian regime; it was also linked to the rule of law and to respect for fundamental freedoms such as freedom of thought and expression, the holding of free and competitive elections, the right to organize and, in general, full respect for all civil and political rights. The right to democracy was, like the right to development, a collective right rather than an individual one. Democratic systems could take very different forms. His delegation had decided to become a sponsor of the draft resolution as orally modified.

19. Mr. BROWN (United States of America) said that his own delegation would be able to accept the amendment to the second preambular paragraph proposed by the representative of Pakistan which would incorporate directly the language of article 1.1 of the two International Covenants of Human Rights. If its co-sponsors agreed, the amended paragraph would read: "Recalling that all peoples have the right of self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development".

20. Mr. DE ICAZA (Mexico) said that, while his delegation fully shared the thinking behind the draft resolution, there appeared to be something of an internal contradiction in the text. The title referred to the right to democracy, but nowhere else in the draft resolution was the right named. The text referred merely to the promotion of democracy. Paragraph 2 referred to the rights of democratic governance but not to the right to democracy as such.

21. Mrs. de ARMAS GARCÍA (Cuba), introducing the amendments proposed by her delegation (E/CN.4/1999/L.64/Rev.4) the second of which had already been accepted by the representative of the United States of America, said that, because the promotion of democracy was a very important issue for her country, her delegation had approached the sponsors of the draft resolution in an effort to secure a more balanced text. The concept of promotion of the right to democracy had not been established in any international instrument, or in prevailing human rights principles and standards, and a process of such magnitude called for a thoroughgoing, open-ended and wide-ranging process of

consultation, which had not taken place. The main sponsor had paid little attention to the views of other delegations and had effectively finalized the text of the draft resolution by itself.

22. That text, which was rather vague, ambiguous, confused and incomplete, set a dangerous precedent for the future. The promotion of democracy had to be based on full observance of the sovereignty of States and of non-interference in their internal affairs; an idea that should certainly have been included in the text. Any linkage between the concept of democracy and human rights should have made reference to the fact - made clear in the Vienna Declaration and Programme of Action - that human rights were multifaceted, could not be restricted to civil and political rights but should also embrace economic, social and cultural rights and the right to development, all of which should be placed on an equal footing.

23. Since the main sponsor had shown no flexibility in addressing the interests of all parties in a wide-ranging open process, her delegation had been constrained to table some amendments. The first was that the title of the draft resolution should be amended to read "Promotion of democracy". The second was that paragraph 3 should be deleted and replaced by a new subparagraph (i) of paragraph 2 which would read: "The full promotion of all human rights, civil, cultural, economic, political and social, as well as the right to development." That would establish the interdependency of all human rights in relation to democracy and make the text more balanced and a proper point of departure for a wide-ranging debate. She hoped that the proposed amendments would be adopted by consensus.

24. Ms. RUBIN (United States of America) said that her delegation had held extensive consultations on the draft resolution. A number of delegations had offered constructive comments which had been incorporated into the version currently before the Commission. Neither of the two amendments proposed by the delegation of Cuba was acceptable to her delegation. The existing title articulated the 2000-year-old democratic concept that the people themselves were in the best position to choose their form of government. To jettison the ringing endorsement of democracy contained in paragraph 3 would seriously damage what was a thoroughly balanced resolution. She therefore requested a roll-call vote on the draft resolution. The Commission should reject the Cuban amendments and adopt the draft resolution in its existing form.

25. Mrs. de ARMAS GARCÍA (Cuba) said that the kind of democracy outlined in the draft resolution was the type specific to the United States, the "democracy" which had tolerated apartheid until the 1960s. Accordingly, her delegation requested separate roll-call votes on both the amendments it proposed.

26. The CHAIRPERSON said that, in accordance with rule 64 of the rules of procedure of the functional commissions of the Economic and Social Council, the amendments to the draft resolution would be voted on first, followed by a vote on the draft resolution itself.

27. Mr. KANAVIN (Norway), speaking in explanation of vote before the voting, said that the title was perfectly acceptable to his delegation. The text of the draft resolution, which made clear that a commitment to human rights amounted to a right to democracy, was more significant.

28. Mr. FARCAS (Romania) said that the successive revisions of the draft resolution demonstrated that the sponsors had already compromised significantly on the original text. The Romanian people had made enormous sacrifices to rid themselves of a dictatorship and establish a liberal democracy in its place. The right to democracy was a key element in the country's system of governance. His delegation would therefore vote against the Cuban amendments.

29. Mr. MALGUINOV (Russian Federation) said that his delegation firmly supported the ideas contained in the draft resolution. Democracy was a starting point for the exercise of all human rights, and the right to development reinforced the right to democracy. Nevertheless, his delegation had some legal misgivings about arrogating to democracy the status of a right. The concept required further discussion by experts in intergovernmental forums. It was also a matter which the Sub-Commission ought to discuss. The Organization for Security and Cooperation in Europe (OSCE) had already explored the link between democracy and human rights, but it had never referred to a right to democracy. It was therefore premature to inject the concept into intergovernmental documents, and his delegation would thus vote in favour of the Cuban amendments.

30. Mr. RODRÍGUEZ CEDEÑO (Venezuela) said that his delegation could not support the amendments proposed by Cuba, since to do so would limit the scope of future debate on the issue. New human rights standards were shaped gradually and developed through their inclusion in intergovernmental documents.

31. At the request of the representative of Cuba, a vote was taken by roll-call on the Cuban amendment (E/CN.4/1999/L.64/Rev.4) to delete the words "the right to" from the title of the draft resolution on the promotion of the right to democracy (E/CN.4/1999/L.55/Rev.2).

32. Cape Verde, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Bhutan, Chile, China, Congo, Cuba, India, Indonesia, Madagascar, Mexico, Pakistan, Russian Federation, Sudan.

Against: Argentina, Austria, Canada, Cape Verde, Colombia, Czech Republic, Ecuador, El Salvador, Germany, Guatemala, Italy, Latvia, Liberia, Luxembourg, Nepal, Norway, Peru, Philippines, Poland, Republic of Korea, Romania, Rwanda, Senegal, South Africa, Sri Lanka, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Abstaining: Bangladesh, Botswana, Democratic Republic of the Congo, France, Ireland, Japan, Mauritius, Morocco, Mozambique, Niger, Qatar, Tunisia, Uruguay.

33. The Cuban amendment to delete the words "the right to" from the title of the draft resolution (E/CN.4/1999/L.64/Rev.4) was rejected by 28 votes to 12, with 13 abstentions.

34. Ms. GLOVER (United Kingdom), speaking in explanation of vote before the voting, said that her delegation did not consider it necessary to amend paragraph 3 of the draft resolution since the existing text was more powerful than the proposed amendment. Furthermore, the proposed amendment misquoted some important language agreed upon the previous year in Commission resolution 1998/56 and at the General Assembly in the context of the fiftieth anniversary of the Universal Declaration of Human Rights. The correct language should be "including the right to development". The proposed amendment also misinterpreted the Vienna Declaration, which reaffirmed that the right to development was a universal and inalienable right and an integral part of fundamental human rights. The proposed amendment did not reflect that idea.

35. At the request of the representative of Cuba, a vote was taken by roll-call on the Cuban amendment (E/CN.4/1999/L.64/Rev.4) to delete paragraph 3 of the draft resolution (E/CN.4/1999/L.55/Rev.2) and replace it by a new subparagraph 2 (i).

36. Madagascar, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Bhutan, China, Congo, Cuba, India, Madagascar, Mexico, Pakistan, Sudan.

Against: Argentina, Austria, Canada, Cape Verde, Chile, Colombia, Czech Republic, Ecuador, El Salvador, Germany, Guatemala, Italy, Japan, Latvia, Liberia, Luxembourg, Norway, Peru, Philippines, Poland, Republic of Korea, Romania, Rwanda, Senegal, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Bangladesh, Botswana, Democratic Republic of the Congo, France, Indonesia, Ireland, Mauritius, Morocco, Mozambique, Nepal, Niger, Qatar, Russian Federation, Sri Lanka, Tunisia, Uruguay, Venezuela.

37. The Cuban amendment to delete paragraph 3 and replace it by a new subparagraph 2 (i) (E/CN.4/1999/L.64/Rev.4) was rejected by 27 votes to 9, with 17 abstentions.

38. Mrs. de ARMAS GARCÍA (Cuba), speaking in explanation of vote before the voting, said that her delegation would abstain from voting on the draft resolution (E/CN.4/1999/L.55/Rev.2). Any text on such an important issue should enjoy a broad-based consensus as a result of wide-ranging consultations. The draft resolution in its existing form was ambiguous,

incomplete and created a dangerous precedent. It should respect the approach outlined in paragraph 8 of the Vienna Declaration and Programme of Action, namely, that any link between the concept of democracy and human rights should stem from a multidimensional concept that could not be restricted to civil and political rights but must also include economic, social and cultural rights, in short full participation by human beings in all aspects of their lives.

39. Mr. PLORUTTI (Argentina) said that his delegation would vote in favour of the draft resolution. It would have liked to become a sponsor of the draft resolution, but had it done so it would have been unable to state its position on the right to self-determination, namely, that self-determination should not be used to undermine the territorial integrity of sovereign independent States.

40. Mr. SUTOYO (Indonesia) said that no one disputed the fact that democracy was a superior political system, and his delegation endorsed the values contained in the draft resolution. Democratic systems should not be forced into a straitjacket, however, and the right to democracy was a new concept that necessitated further debate in order to develop a common understanding of the term.

41. Mr. WANG Min (China) said that China's Constitution and laws fully protected human rights. His Government was committed to reforming and perfecting its legal system in accordance with the rule of law. However, there was no universal model for democratic political systems. All Governments and peoples were entitled to choose their individual paths of political development in accordance with the specific conditions prevailing in their countries.

42. The concept of a right to democracy was new and required further discussion, and it was premature to include it in a Commission resolution. Furthermore, it was wrong to single out political rights and downplay the importance of economic, social and cultural rights. Because the draft resolution selectively promoted a single aspect of human rights, and because more attention needed to be given to the specific historical, cultural and political background in each country, his delegation would abstain from voting on it.

43. Mr. H.K. SINGH (India) said that his delegation wished to become a sponsor of the draft resolution.

44. At the request of the representative of the United States of America, a vote was taken by roll-call on the draft resolution on the promotion of the right to democracy (E/CN.4/1999/L.55/Rev.2).

45. Mexico, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Austria, Bangladesh, Bhutan, Botswana, Canada, Cape Verde, Chile, Colombia, Congo, Czech Republic, Democratic Republic of the Congo, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Ireland, Italy, Japan, Latvia, Liberia, Luxembourg, Madagascar,

Mauritius, Mexico, Morocco, Mozambique, Nepal, Niger, Norway, Pakistan, Peru, Philippines, Poland, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Senegal, South Africa, Sri Lanka, Sudan, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: None.

Abstaining: China, Cuba.

46. The draft resolution, as orally revised and amended, was adopted by 51 votes to none, with 2 abstentions.

47. Mr. SUMI (Japan) said that democracy was indispensable for promoting and protecting human rights. His delegation hoped that further discussion of the right to democracy would clarify the concept.

The meeting rose at 4.25 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 58th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 28 April 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

CONTENTS

CONSIDERATION OF DRAFT RESOLUTIONS AND DRAFT DECISIONS SUBMITTED UNDER AGENDA ITEMS 17 AND 18 (continued)

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GE.99-13270 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DRAFT DECISIONS SUBMITTED UNDER AGENDA ITEMS 17 AND 18 (continued)

Draft resolutions and draft decisions submitted under agenda item 17

Draft decision E/CN.4/1999/L.79 (Human rights and the follow-up to the guidelines for the regulation of computerized personal data files)

1. Mr. PETIT (France), introducing draft decision E/CN.4/1999/L.79 on the guidelines for the regulation of computerized personal data files, adopted by General Assembly resolution 45/95, said that since States were progressively taking the applicable guidelines into consideration, the question should be withdrawn from the agenda of future sessions of the Commission. The draft decision also requested the Secretary-General to entrust the competent inspection bodies with the task of ensuring the implementation of the guidelines by the organizations concerned within the United Nations system. He hoped that the draft decision would be adopted by consensus.

2. Draft decision E/CN.4/1999/L.79 was adopted without a vote.

Draft resolution E/CN.4/1999/L.81 (Impunity of perpetrators and violators of economic, social and cultural rights)

3. Mr. REYES RODRÍGUEZ (Cuba), introducing draft resolution E/CN.4/1999/L.81, said that his delegation would have preferred the main points to be incorporated into draft resolution E/CN.4/1999/L.48 on impunity which the Commission had adopted previously. During consultations on the draft, his delegation had pointed out that paragraph 91 of the Vienna Declaration and Programme of Action, which dealt with the work of the Commission on Human Rights and its Sub-Commission regarding impunity of perpetrators of violations of human rights, had drawn no distinction between civil and political rights on the one hand and economic, social and cultural rights on the other; it was time to end the distinction between the two types of rights, which was a hangover from the cold war. It was only because the sponsors of draft resolution E/CN.4/1998/L.48 had been so unaccommodating that Cuba had introduced a draft resolution dealing solely with impunity in the context of economic, social and cultural rights. His delegation had done so because, in many countries, violations of those rights were not covered by legislation and victims therefore had no means of securing redress. Cuba was convinced of the indivisibility of human rights and would do its utmost to ensure that, at the following session, there would be a single draft resolution covering both aspects.

4. His delegation wished to thank all the countries which had sponsored the draft resolution and the many non-governmental organizations (NGOs) which had helped to frame it. In view of the spirit of cooperation which it embodied, his delegation hoped that the draft resolution would be adopted by consensus.

5. He drew the Commission's attention to two revisions in the text. The word "gross" in the last sentence of the fourth preambular paragraph and the phrase "and humanitarian law" at the end of operative paragraph 3 should be

deleted. In addition, as the representative of Mexico had rightly suggested, the words "to the prevention" should be replaced by "for the prevention" in the English version of the same paragraph.

6. Mr. HÖYNCK (Germany), speaking on behalf of the European Union, the Central and Eastern European countries and the associate country of Cyprus, and explaining their vote before the voting, said that draft resolution E/CN.4/1999/L.81 dealt with the important issue of the impunity of perpetrators of human rights violations and the full realization of economic, social and cultural rights in a way that did not meet the concerns of the European Union. The text currently before the Commission seemed to imply that individuals could be held accountable for the failures of States and that States were obliged to hold such individuals responsible. That was not currently the position under international law. As a result, the entire conception of the draft resolution was flawed. Moreover, many of the points which it addressed had already been raised and discussed in the negotiations on draft resolution E/CN.4/1999/L.48 on impunity. Their inclusion in that resolution had been rejected. Finally, the European Union regretted that there had been no open consultations on the draft. A more transparent procedure would have enabled the concerns of the European Union to be taken into account. Accordingly, the European Union would vote against draft resolution E/CN.4/1999/L.81.

7. Ms. BUCK (Canada) said that draft resolution E/CN.4/1999/L.46, which the Commission had adopted by consensus the previous week, aimed to ensure that violators of international human rights standards would be held accountable for their actions. While acknowledging the importance of economic, social and cultural rights, her delegation could not support the draft resolution introduced by Cuba because it confused a number of legal issues raised by violations and violations of economic, social and cultural rights. Canada might have supported the draft resolution if it had been examined at an earlier stage and if some of its provisions had been clarified, but in the event her delegation intended to abstain during the voting.

8. Mr. SUMI (Japan) said that he was in no doubt that the impunity of perpetrators of violations of economic, social and cultural rights was a problem that needed to be confronted. But since consideration of the issue was still at an early stage, his Government did not believe that the time was right to request the Secretary-General to gather information and comments with a view to submitting a report to the Commission. The request made of the mechanisms of the Commission in paragraph 6 of the draft resolution also seemed premature. Japan therefore intended to abstain during the voting.

9. Ms. RUBIN (United States of America) said that her delegation would vote against the draft resolution. Although the progressive implementation of economic, social and cultural rights was an important goal which the United States wholeheartedly endorsed, the failure to achieve that goal should not be associated with reprehensible conduct either in international or domestic law. The draft resolution before the Commission implied that criminal intent was involved in violations of economic, social and cultural rights, yet it provided no details about the nature of those violations or the terms on which the alleged perpetrators enjoyed impunity. Her delegation also believed that the report of Mr. El Hadji Guissé referred to in the draft

resolution was flawed in several respects. For example, it devoted too much attention to various collective rights whereas the work of the Vienna Conference had clearly indicated that the right to development was an individual right and that the individual was the starting point for all rights. The same report had mentioned issues such as corruption and tax evasion. On that point, her Government agreed with the Special Rapporteur's comment that officials who committed such offences were violating the economic, social and cultural rights of their citizens.

10. At the request of the representative of Cuba, a vote was taken by roll-call on draft resolution E/CN.4/1999/L.81.

11. Uruguay, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Bangladesh, Bhutan, Cape Verde, China, Congo, Cuba, Ecuador, India, Madagascar, Mauritius, Mexico, Morocco, Nepal, Niger, Pakistan, Qatar, Russian Federation, Rwanda, Senegal, Sudan, Tunisia.

Against: Czech Republic, France, Germany, Italy, Latvia, Poland, Romania, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Austria, Botswana, Canada, Chile, Colombia, El Salvador, Guatemala, Indonesia, Ireland, Japan, Liberia, Luxembourg, Mozambique, Norway, Peru, Philippines, Republic of Korea, South Africa, Sri Lanka, Uruguay, Venezuela.

12. Draft resolution E/CN.4/1999/L.81 was adopted by 21 votes to 9, with 22 abstentions.

Draft resolution E/CN.4/1999/L.84 (Globalization and its impact on the full enjoyment of all human rights)

13. Mr. SALAMA (Observer for Egypt), introducing draft resolution E/CN.4/1999/L.84 on behalf of its sponsors, said that it was increasingly clear that the effects of globalization were not simply economic but also political, social, environmental, cultural and legal, and as such they had an impact on human rights. No one could currently predict the nature of that impact, and the draft resolution currently before the Commission was designed to raise awareness of the issue and its repercussions. The sponsors had been careful to ensure that the language of the draft resolution did not prejudge the issue.

14. To the legitimate question as to why the Commission should be discussing such an issue, it could be answered that it already dealt with issues such as the impact of science and technology on human rights, and globalization had a direct impact on topics that fell within the Commission's mandate.

15. His delegation did not agree with the argument that the draft resolution had been submitted to the Commission in an attempt to divert attention from

the failings of States. The first paragraph of the draft resolution clearly stated that it was the responsibility of the authorities to promote and protect human rights. But it must be acknowledged that States were not omnipotent. The more that was known about the effects of globalization, the less States would be able to exploit globalization as a justification for human rights violations.

16. Given the importance of the topic and the positive spirit which had characterized the consultations, the sponsors hoped that the draft resolution would be adopted by consensus.

17. Ms. IZE-CHARRIN (Secretary of the Commission) said that Mauritius, South Africa, the Sudan and the United States of America had become sponsors.

18. Mr. PADILLA MENÉNDEZ (Guatemala) said that in view of the harmful effects of globalization on the smooth operation of democracy in developed countries and its repercussions on other rights, including economic, social and cultural rights throughout the world, it was unfortunate that the sponsors of the draft resolution had not opened their consultations to everybody. While acknowledging the importance of the issue, his delegation regretted the lack of any systematic effort to group various topics together, with the resultant proliferation of resolutions. That had imposed a heavier workload on the Commission and overtaxed its meagre resources. Meanwhile, owing to the dissipation of effort within the United Nations system, the Commission would only make headway on the issue of globalization and other topics when it started to coordinate properly with other bodies including the World Bank, the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD) and the regional economic commissions.

19. Mr. HÖYNCK (Germany), explaining the position of the European Union, the Central and Eastern European countries associated with the Union and the associate country of Cyprus on draft resolution E/CN.4/1999/L.84, said that the Commission had already considered certain aspects of globalization in the context of specific human rights. The issue had also been dealt with by a number of independent experts, and the independent expert on the right to development had announced his intention to focus on the impact of globalization in a number of East Asian countries.

20. While acknowledging the implications of globalization for human rights, the European Union perceived several risks in considering it as a separate issue. First, it could be queried whether the Commission had the required competence and expertise to address the issue. Second, globalization might be perceived as an autonomous phenomenon, thereby implying that responsibility for the promotion and protection of human rights no longer rested entirely with States. Finally, the strategy of dealing with globalization as a separate issue might lead to an increase in the number of new issues for consideration, which would overstrain the Commission's resources and distract it from its primary tasks.

21. The European Union regretted its failure to integrate the elements of the draft resolution into existing resolutions, particularly the resolution on the right to development. Nevertheless, owing to the constructive

negotiations which had taken place and the overall assessment of the new issues which had emerged at the current session, the European Union would go along with the emerging consensus.

22. The CHAIRPERSON announced that the United States had withdrawn its proposed amendments to draft resolution E/CN.4/1999/L.84, contained in document E/CN.4/1999/L.100.

23. Mr. LABBE VILLA (Chile) said that his delegation could not agree with the contents of the draft resolution. There was a movement afoot to overextend the Commission's mandate, which could only deflect attention from priority tasks. All kinds of factors could affect the full enjoyment of human rights, and globalization was certainly one such factor. However, the dynamic process of globalization, the advantages of which were apparent to most Latin American countries, was rather a matter for the Second Committee of the General Assembly, the Economic and Social Council, UNCTAD, the World Trade Organization (WTO) and the International Labour Organization (ILO), which had the necessary resources and mandates. While fully respecting the position of the sponsors, Chile regarded the issue as a point of principle and therefore requested that it should be put to a vote. His delegation would vote against the draft resolution.

24. Mr. SUMI (Japan) said that the complex issue of globalization should have been considered under the agenda item dealing with the right to development; Japan would abstain in a vote on the issue.

25. Ms. RUBIN (United States of America) said that her delegation had supported the work of a number of forums on the issue of globalization. However, the topic did not fall within the mandate of the Sub-Commission on Prevention of Discrimination and Protection of Minorities or of the Commission itself, which risked seeing its role diminished if it turned the topic into a subsidiary item on its agenda. The United States would therefore vote against the draft resolution.

26. Mr. HYNES (Canada) said that his delegation would abstain in the vote since it had been impossible to arrive at a sufficiently broad consensus on the issue.

27. Mr. FERNÁNDEZ PALACIOS (Cuba) asked that Cuba should be removed from the list of sponsors in view of the fact that his delegation, which firmly supported the draft resolution, had been unable to respond to the comments which had been made on the text. The sponsors had taken account of all the proposals submitted to them; they rejected the assertion that globalization was not part of the Commission's mandate. The Commission should deal with all factors that affected human rights, and it was unfortunate that Chile, which had not participated in the consultations, should request a vote on the draft resolution.

28. At the request of the representative of India, the vote was taken by roll-call.

29. The Russian Federation, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Bangladesh, Bhutan, Botswana, Cape Verde, China, Congo, Cuba, Ecuador, France, India, Indonesia, Italy, Madagascar, Mauritius, Mexico, Morocco, Mozambique, Nepal, Niger, Pakistan, Philippines, Qatar, Russian Federation, Rwanda, Senegal, South Africa, Sri Lanka, Sudan, Tunisia, Venezuela.

Against: Chile, United States of America.

Abstaining: Argentina, Canada, Colombia, Czech Republic, El Salvador, Germany, Guatemala, Ireland, Japan, Latvia, Liberia, Luxembourg, Norway, Peru, Poland, Republic of Korea, Romania, United Kingdom of Great Britain and Northern Ireland, Uruguay.

30. Draft resolution E/CN.4/1999/L.84 was adopted by 30 votes to 2, with 20 abstentions.

Draft resolution E/CN.4/1999/L.85 (Human rights and responsibilities)

31. Mr. ZAHRAN (Observer for Egypt), introducing draft resolution E/CN.4/1999/L.85 on behalf of its sponsors, said that the text was based on article 29 of the Universal Declaration of Human Rights. The notion of human rights and responsibilities did not exempt Governments from their responsibility to protect and promote human rights, but was intended to supplement it. The world had experienced numerous and profound transformations which had led to the emergence of new actors. Those actors, who often wielded enormous power, should assume commensurate responsibilities, particularly in the field of human rights.

32. After a discussion in which Mr. HÖYNCK (Germany) and Mr. ZAHRAN (Observer for Egypt) took part, the CHAIRPERSON suggested that a vote on the draft resolution should be postponed to enable it to be adopted by consensus.

33. It was so decided.

Draft resolution E/CN.4/1999/L.88 (Development of public information activities in the field of human rights, including the World Public Information Campaign on Human Rights)

34. Mr. MORENO (Italy), introducing draft resolution E/CN.4/1999/L.88 on behalf of its sponsors, said that ongoing activities to improve public awareness in general and the awareness of target groups in particular was essential to the achievement of respect for human rights. The development of public information activities should be accompanied and backed up by specific educational efforts. Information, education and training were all complementary; it was on the basis of the combination and development of those elements that a genuine process of promoting and protecting human rights could be set in motion.

35. The draft resolution was biennial and harked back to resolution 1997/41 which had been adopted without a vote at the fifty-third session. Since the draft resolution was general in scope, he trusted that it would be adopted by consensus.

36. Ms. IZE-CHARRIN (Secretary of the Commission) said that Germany, Ireland, Madagascar, the Russian Federation and Venezuela had become sponsors.

37. Draft resolution E/CN.4/1999/L.88 was adopted without a vote.

Draft resolution E/CN.4/1999/L.91 (Question of the death penalty)

38. Mr. HÖYNCK (Germany), introducing draft resolution E/CN.4/1999/L.91 on behalf of its sponsors, said that it was the view of the European Union that the death penalty violated the fundamental right to life as enshrined in article 3 of the Universal Declaration of Human Rights. The European Union did not wish to pass value judgements or stigmatize anyone; it had based its view on the following considerations: the impossibility of completely excluding judicial error and the irreversibility of the death penalty; the fact that the vast majority of persons put to death were underprivileged; and the speciousness of the argument that the threat, imposition and administration of the death penalty deterred criminals more effectively than other penalties and thus reduced the incidence of violent crime.

39. Following an Italian initiative, the European Union had therefore introduced draft resolution E/CN.4/1999/L.91 which called upon all States that still maintained the death penalty progressively to restrict the number of offences for which the death penalty could be imposed, to establish a moratorium on executions, and to observe international minimum standards.

40. Some new elements included in the draft were the appeal not to impose the death penalty on persons below 18 years of age or pregnant women, and the request to States which had received a request for extradition on a capital charge to reserve explicitly the right to refuse extradition in the absence of effective assurances from the relevant authorities of the requesting State that capital punishment would not be carried out.

41. The European Union had noted with concern that certain States had summarily convicted and executed persons when, in cases where the death penalty still existed, capital punishment should only have been carried out pursuant to the judgement of a competent, impartial and independent court, and the right of appeal and the right to petition for pardon or commutation of the sentence should have been guaranteed in all circumstances.

42. Calling for observance of the standards enshrined in the relevant international instruments, the European Union believed that the abolition of the death penalty would help to strengthen human dignity and progressively develop human rights.

43. Ms. IZE-CHARRIN (Secretary of the Commission) said that Mauritius and the Republic of Moldova had become sponsors.

44. Mr. MORENO (Italy) noted with satisfaction that his delegation's efforts had resulted in a common European Union position and thanked all delegations which had participated in the consultations, particularly those which had demonstrated clear sightedness in agreeing to include a paragraph on extradition. The draft resolution clearly showed that international relations were developing positively towards the complete abolition of the death penalty.

45. Mr. LAGOS PIZZATI (El Salvador) welcomed the very positive initiative which had resulted in the draft resolution and said that his Government had undertaken a reform of the Salvadoran Constitution which henceforth recognized the right to life from the moment of conception. His delegation wished to join the sponsors of the draft resolution.

46. Mr. SINGH (India) regretted that, as in the past, the debate on the topic had lacked transparency. It was clear that the international community had not yet reached a consensus on the issue of capital punishment. While excessive recourse to the death penalty was a matter of concern, it had to be recognized that its abolition could only be achieved gradually.

47. India supported some of the elements in the draft resolution, particularly the fact that the death penalty should be applied only for the most serious crimes in conformity with the law and international human rights standards. In India, the death penalty was only applied for extremely heinous crimes; capital punishment was the exception rather than the rule. Death sentences had to be confirmed by a superior court and the accused had the right to appeal to the High Court or the Supreme Court. Furthermore, pregnant women and minors could not be sentenced to death.

48. India had abstained in the vote on similar resolutions at the previous two sessions of the Commission. Regrettably, the draft resolution introduced at the current session contained new restrictions on the prerogatives of States which still maintained the death penalty. In particular, the fact that States were requested to stay execution for the duration of related legal proceedings at international level was unacceptable because the only procedures which could apply were those provided for under domestic State legislation. The restrictions imposed by the draft resolution on the extradition of persons to States where capital punishment existed could set a dangerous precedent because criminals might take refuge in States which had abolished the death penalty. India believed that persons should be tried in the State where the crime was committed, whereas the draft resolution proposed that the prerogative should be transferred to the authorities of the State harbouring the criminal.

49. Ms. RUBIN (United States of America) requested that draft resolution E/CN.4/1999/L.91 should be put to a vote. The United States would vote against the draft resolution because it believed that the death penalty violated neither international law nor any of the treaties to which the United States was a party. The laws of the United States provided safeguards for protecting the rights of persons facing the death penalty, who had a number of appeal procedures available to them. Nationwide, 38 states had introduced the death penalty and 12 had abolished it. In all cases, the death penalty was only imposed for the most heinous crimes.

50. While acknowledging that a number of states had abolished the death penalty, her Government pointed out that the majority of Americans were in favour of keeping capital punishment.

51. Mr. SINGH (India) requested that a separate roll-call vote should be taken on operative paragraphs 3 (f), 4 (b) and 5 of the draft resolution.

52. Mr. HÖYNCK (Germany) said that, while he understood the position of the representative of India, the paragraphs referred to had been drafted very carefully. Besides, the passages in question were certainly not an attempt to undermine State sovereignty. Germany would vote for the retention of the three paragraphs.

53. At the request of the representative of India, a vote was taken by roll-call on operative paragraphs 3 (f), 4 (b) and 5 of draft resolution E/CN.4/1999/L.91.

54. The Republic of Korea, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Austria, Canada, Cape Verde, Chile, Colombia, Czech Republic, Ecuador, El Salvador, France, Germany, Ireland, Italy, Latvia, Luxembourg, Mauritius, Mexico, Nepal, Norway, Peru, Poland, Romania, Russian Federation, South Africa, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: Bangladesh, Botswana, China, Cuba, India, Japan, Morocco, Pakistan, Qatar, Republic of Korea, Rwanda, Sudan, United States of America.

Abstaining: Bhutan, Congo, Democratic Republic of the Congo, Guatemala, Indonesia, Liberia, Madagascar, Mozambique, Niger, Philippines, Senegal, Sri Lanka, Tunisia.

55. Operative paragraphs 3 (f), 4 (b) and 5 of draft resolution E/CN.4/1999/L.91 were retained by 27 votes to 13, with 13 abstentions.

Explanations of vote before the vote on draft resolution E/CN.4/1999/L.91 as a whole.

56. Mr. LEPATAN (Philippines) said that the Philippines respected the right of all countries to state their views on the applicability or otherwise of the death penalty and consequently his delegation would abstain in the vote. Moreover, it was clear that the international community had failed to reach consensus on the abolition of the death penalty at the present time.

57. The Constitution of the Philippines prescribed the death penalty only for particularly serious crimes. There were currently no plans to abolish it or to impose a moratorium on its use.

58. Mr. MOPJANE (Tunisia) said that for practical purposes the death penalty no longer existed in Tunisia. It was only imposed in extremely rare cases and had not been used since 1992. In order to conform to domestic legislation and practice, his delegation would abstain in the vote.

59. Mr. SINGYE (Bhutan) said that Bhutan did not oppose the abolition of the death penalty, yet it could not support a draft resolution which affected the sovereignty of States in the matter.

60. At the request of the representative of Rwanda, a vote was taken by roll call on draft resolution E/CN.4/1999/L.91 as a whole.

61. Ireland, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Austria, Canada, Cape Verde, Chile, Colombia, Congo, Czech Republic, Ecuador, El Salvador, France, Germany, Ireland, Italy, Latvia, Luxembourg, Mauritius, Mexico, Mozambique, Nepal, Niger, Norway, Peru, Poland, Romania, Russian Federation, South Africa, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: Bangladesh, Botswana, China, Indonesia, Japan, Pakistan, Qatar, Republic of Korea, Rwanda, Sudan, United States of America.

Abstaining: Bhutan, Cuba, Democratic Republic of the Congo, Guatemala, India, Liberia, Madagascar, Morocco, Philippines, Senegal, Sri Lanka, Tunisia.

62. Draft resolution E/CN.4/1999/L.91 was adopted by 30 votes to 11, with 12 abstentions.

Draft resolution E/CN.4/1999/L.94 (Towards a culture of peace)

63. Mr. LAGOS PIZZATI (El Salvador), introducing draft resolution E/CN.4/1999/L.94 on behalf of the 53 sponsors, said that its purpose was to recall the initiatives taken by civil society with a view to proclaiming the year 2000 as the International Year for the Culture of Peace and inviting States to promote values such as respect for human rights, democracy, non-violence, solidarity, tolerance and dialogue between cultures.

64. The draft resolution stressed that the international community had a responsibility to contribute to strengthening the culture of peace and requested the Office of the High Commissioner for Human Rights to prepare a report on the contribution of the promotion and protection of human rights to the further development of a culture of peace.

65. Recalling that open consultations had served to enhance the text, his delegation hoped that it would be adopted by consensus.

66. Ms. IZE-CHARRIN (Secretary of the Commission) said that Albania, Angola, Bosnia and Herzegovina, Israel and Mauritius had become sponsors.

67. Draft resolution E/CN.4/1999/L.94 was adopted without a vote.

Draft resolution E/CN.4/1999/L.95 (Human rights and bioethics)

68. Ms. IZE-CHARRIN (Secretary of the Commission) said that the English version of the draft resolution, which had originally been submitted in French, was incomplete. Operative paragraph 8, which appeared in the French and Spanish versions, should be added. (Paragraph 8 "requests the Secretary-General to prepare a report on the basis of these contributions for consideration by the Commission at its fifty-seventh session".)

69. Mr. PETIT (France), introducing draft resolution E/CN.4/1999/L.95, said that the life sciences and bioethnics-related technologies had developed spectacularly in recent years; such development had justifiably raised and continued to raise novel ethical questions. The importance and sensitivity of the issues associated with the development of the life sciences and the complexity of their application would loom ever larger in the years to come. They should neither be feared nor ignored.

70. A number of international bodies were already examining the topic; the purpose of the draft resolution before the Commission was not to duplicate what was being done elsewhere, particularly in the International Bioethics Committee, but to contribute to an informed discussion by the Commission in order to ensure that the human dimension remained at the heart of the debate.

71. The current draft resolution had been updated to take account of recent developments since the adoption of General Assembly resolution 53/152 endorsing the Universal Declaration on the Human Genome and Human Rights adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO). The text invited the relevant United Nations agencies to take account of the principles contained in the Declaration and stressed the need to coordinate effectively the work of the various United Nations bodies and agencies in the field of bioethics. It also requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider what contribution it could make to the work of the International Bioethics Committee. France and the other sponsors hoped that, once again the draft resolution would be adopted by consensus.

72. Ms. IZE-CHARRIN (Secretary of the Commission) said that Albania, Bangladesh, Ecuador, Finland, Israel, Monaco, Portugal and Uruguay had become sponsors.

73. Draft resolution E/CN.4/1999/L.95 was adopted without a vote.

Draft resolution E/CN.4/1999/L.96 (United Nations Decade for Human Rights Education)

74. Mr. GUILLERMET (Observer for Costa Rica), introducing draft resolution E/CN.4/1999/L.96, said that it was based on General Assembly resolution 49/184 proclaiming the United Nations Decade for Human Rights Education. The draft resolution reaffirmed the mandate of the Office of the High Commissioner for Human Rights regarding the coordination of United Nations programmes for human rights education and publicity.

75. Two revisions should be noted. In operative paragraph 9, the word "urges" should be replaced by the word "encourages". In operative paragraph 11, the phrase "especially the United Nations Educational, Scientific and Cultural Organization" should be inserted after the phrase "specialized agencies".

76. His delegation was convinced of the need to promote human rights education and hoped that a number of activities would be initiated within the framework of the Decade. His delegation also trusted that the draft resolution would be adopted without a vote.

77. Ms. IZE-CHARRIN (Secretary of the Commission) said that Australia, Austria, Congo, Finland, Israel, Norway, the Russian Federation, Slovakia and Ukraine had become sponsors.

78. Mr. COMBA (Office of the High Commissioner for Human Rights) said that the "Assisting Communities together" project, which was being implemented by the Office of the High Commissioner for Human Rights, was currently funded from extra-budgetary resources. No provision had been made for its implementation within the regular budget of the Organization. Consequently, the continuation of the project depended on contributions specially allocated for that purpose.

79. Draft resolution E/CN.4/1999/L.96, as orally revised, was adopted without a vote.

Draft resolution E/CN.4/1999/L.97 (Fundamental standards of humanity)

80. Mr. WILLE (Norway), introducing draft resolution E/CN.4/1999/L.97, said that its purpose was to invite Governments, United Nations bodies, human rights treaty bodies, the mechanisms of the Commission and intergovernmental and non-governmental organizations to provide comments on the report of the Secretary-General on fundamental standards of humanity (E/CN.4/1999/92). The draft resolution also requested the Secretary-General to submit a report to the Commission at its next session detailing the comments received and relevant new developments.

81. His delegation proposed that operative paragraph 1 of the draft resolution should be deleted since it merely repeated the first paragraph of the Commission's resolutions of 1997 and 1998 on the same topic. Given that the issue had been on the Commission's agenda since 1995, he hoped that the draft resolution would be adopted without a vote, as in the past.

82. Ms. IZE-CHARRIN (Secretary of the Commission) said that Argentina, Ireland and Italy had become sponsors.

83. Mr. DE ICAZA (Mexico) said that, in light of the revision which had just been made by the representative of Norway, his delegation would join the list of sponsors, as it had done in the past.

84. Draft resolution E/CN.4/1999/L.97, as orally revised, was adopted without a vote.

Draft resolution E/CN.4/1999/L.98 (Implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms)

85. Mr. WILLE (Norway), introducing draft resolution E/CN.4/1999/L.98, on behalf of its sponsors highlighted its main points and said that he hoped it would be adopted by consensus.

86. Ms. IZE-CHARRIN (Secretary of the Commission) said that Argentina and the Republic of Korea had become sponsors.

87. Mr. ALFONSO MARTÍNEZ (Cuba) said that his delegation would join the consensus but warned against privatizing the protection and promotion of human rights as part of the general wave of privatization that was sweeping the world. The issue should remain firmly in the public domain. Moreover, in preparing the report requested in paragraph 3 of the draft resolution, the Secretary-General should take account of the need to avoid a proliferation of special mechanisms. The establishment of a mechanism specifically responsible for human rights defenders would be contrary to the spirit of the Vienna Conference and would involve duplication to the extent that the efforts of such defenders were already being considered by various special rapporteurs, working groups and other mechanisms.

88. Draft resolution E/CN.4/1999/L.98 was adopted by consensus.

Draft resolution E/CN.4/1999/L.99 (Convention on the Prevention and Punishment of the Crime of Genocide)

89. Mr. NAZARIAN (Observer for Armenia), introducing draft resolution E/CN.4/1999/L.99 on behalf of its sponsors, said that it referred to the international instruments relating to genocide and recalled General Assembly resolution 53/43 and Commission on Human Rights resolution 1998/10 on the commemoration of the fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide. It also stressed the importance of implementing the Convention and adopting the Statute of the International Criminal Court. The Office of the High Commissioner for Human Rights and the Commission could contribute effectively to the prevention of genocide, which had already caused immense suffering for humanity and claimed millions of innocent victims, and the international community should recommit itself to eliminating genocide completely. The draft resolution before the Commission was basically humanitarian in nature; it had received the support of a number of delegations from various regional groups and his delegation trusted that it would be adopted by consensus.

90. Ms. IZE-CHARRIN (Secretary of the Commission) said that Albania, Argentina, Belarus, Côte d'Ivoire, Cyprus, the Dominican Republic, Israel, Mongolia, Nigeria, Uganda, Ukraine, Uruguay and Venezuela had become sponsors.

91. Mr. AKRAM (Pakistan) regretted that the draft resolution had omitted to mention the genocide which had occurred in the Great Lakes region of Africa, Bosnia and Herzegovina, and Kosovo. Accordingly, the draft resolution should be put to a vote.

92. Mr. FERNÁNDEZ PALACIOS (Cuba) said that his delegation would vote in favour of the draft resolution but did not see the need to reconsider the topic every year.

93. At the request of the representative of the Russian Federation, a vote was taken by roll-call on draft resolution E/CN.4/1999/L.99.

94. Pakistan, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Austria, Bangladesh, Bhutan, Botswana, Canada, Cape Verde, Chile, China, Colombia, Congo, Cuba, Czech Republic, Democratic Republic of the Congo, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Ireland, Italy, Japan, Latvia, Liberia, Luxembourg, Madagascar, Mauritius, Mexico, Morocco, Mozambique, Nepal, Niger, Norway, Peru, Philippines, Poland, Republic of Korea, Russian Federation, Rwanda, Senegal, South Africa, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: None.

Abstaining: Pakistan, Qatar, Romania, Sri Lanka, Sudan.

95. Draft resolution E/CN.4/1999/L.99 was adopted by 48 votes to none, with 5 abstentions.

Draft resolution E/CN.4/1999/L.61 (Enhancement of international cooperation in the field of human rights)

96. Mr. MONTWEDI (South Africa), introducing the draft resolution on behalf of the Movement of Non-Aligned Countries (NAM) and China, requested that, as at the three previous sessions, it should be adopted by consensus.

97. Ms. IZE-CHARRIN (Secretary of the Commission) said that Costa Rica had become a sponsor.

98. Draft resolution E/CN.4/1999/L.61 was adopted without a vote.

Explanations of vote after the decisions taken on draft resolutions under agenda item 17

99. Mr. WIRAJUDA (Indonesia) read out a joint declaration by a number of States on the question of the death penalty. Those States wished to dissociate themselves from draft resolution E/CN.4/1999/L.91 because there was no international consensus that capital punishment should be abolished. Article 6, paragraph 2, of the International Covenant on Civil and Political Rights stipulated that "sentence of death may be imposed only for the most serious crimes". Second, the right to life of persons facing the death

penalty had to be weighed against the rights of victims and the right of the community to live in peace and security. Third, the issue of whether to abolish the death penalty should be carefully studied by each State, taking full account of the sentiments of its population and the development of national crime policy. It was inappropriate to take a universal decision on the issue or to propose such an approach within the forum of an international organization.

100. Mr. PLORUTTI (Argentina) referring to the draft resolution on human rights and bioethics (E/CN.4/1999/L.95) which had just been adopted and which his delegation supported, said that the Universal Declaration on the Human Genome and Human Rights adopted by UNESCO in 1997, far from closing the debate, was a starting point for thinking about the issues that still needed to be defined. The Declaration would be even more significant inasmuch as scientific and technical changes would be subject to ethical supervision. His delegation thanked the French delegation for its untiring efforts to seek a consensus, which had resulted in the adoption of draft resolution E/CN.4/1999/L.95.

101. Mr. CHOWDHURY (Bangladesh) said that his delegation had voted against the draft resolution on the death penalty because capital punishment was permitted under the law of Bangladesh, even though it was rarely imposed and only then for the most heinous crimes, including crimes against women. He hoped that Bangladesh would one day be in a position to vote in favour of such a draft.

Draft resolutions submitted under agenda item 18

Draft resolution E/CN.4/1999/L.75 (Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region)

102. Mr. SINGH (India), introducing the draft resolution on behalf of its sponsors, said that it was essentially based on the progress achieved in implementing the framework regional programme, in particular the conclusions and recommendations of the Seventh Workshop on Regional Arrangements for the Promotion and Protection of Human Rights in the Asian and Pacific Region held in New Delhi in February 1999. Three minor revisions needed to be flagged. At the end of paragraph 3, the words "in the Asian and Pacific Region" should be added. In paragraph 5, "reiterates" should be replaced by "recognizes". And in paragraph 6, the word "also" should be added after the word "recognizes". His delegation hoped that the draft resolution would be adopted by consensus.

103. Draft resolution E/CN.4/1999/L.75, as orally revised, was adopted without a vote.

Draft resolution E/CN.4/1999/L.78 (Composition of the staff of the Office of the United Nations High Commissioner for Human Rights)

104. Mr. REYES RODRIGUEZ (Cuba), introducing draft resolution E/CN.4/1999/L.78 on behalf of its numerous sponsors, recalled that the Commission had reaffirmed that the need to employ staff with the highest standards of efficiency, competence and integrity was compatible with the

principle of equitable geographical distribution. However, the High Commissioner's report on the geographical composition of the Office staff (E/CN.4/1999/97) had clearly shown that the Western European and Other States Group was unequivocally over-represented. The High Commissioner, who had expressed her willingness to ensure a good geographical balance, was therefore encouraged to take measures to rectify the alarming situation. The fact the Deputy High Commissioner was from the Latin American and Caribbean region would, it was hoped, have some impact on the composition of the rest of the staff. The regional, historical and other characteristics of individuals necessarily had an effect on the way they approached their work. Although human rights were universal, the essential basis of universality was diversity. Diversity and equitable geographical representation would ensure the smooth functioning of the Office of the High Commissioner. His delegation hoped that the draft resolution would receive widespread support.

105. Ms. IZE-CHARRIN (Secretary of the Commission) said that Malaysia and Turkey had become sponsors.

106. Mr. SCHAEFER (Germany), speaking on behalf of the European Union, requested that the draft resolution be put to a vote. Contrary to the principle of transparency so frequently invoked by the representative of Cuba, no open consultations regarding the draft resolution had been organized which would have enabled the European Union to voice its concerns.

107. Mr. HYNES (Canada) regretted that the introduction of a draft resolution on the composition of the staff had become a sort of annual ritual. Not only was the substance of the draft resolution questionable, but the issue which it raised had nothing to do with the Commission's mandate. Article 101 of the Charter clearly stated that the appointment of staff was the exclusive prerogative of the Secretary-General. Canada firmly supported the efforts of the Secretary-General and the High Commissioner to ensure that the Office of the High Commissioner was able to carry out its functions by employing staff with the highest degree of professionalism and on the basis of respect for the principles enshrined in the Charter and universal human rights instruments. His delegation would vote against the draft resolution and urged other States to do likewise.

108. Mr. LOFTIS (United States of America) said that his delegation would also vote against the draft resolution because it called for the urgent adoption of specific and immediate measures to modify the present geographical balance of the staff of the High Commissioner's Office, in direct violation of Article 101 of the Charter. The United States had no doubt that the High Commissioner was prepared to recruit qualified and experienced candidates from all geographical regions. But it would resolutely oppose any pressure designed to force the High Commissioner to recruit individuals regardless of their qualifications simply because they came from a particular region. The same principle applied to the recruitment of Junior Professional Officers. His delegation was utterly opposed to the establishment of the permanent mechanism referred to in paragraph 6 of the draft resolution and unreservedly associated itself with the statement made by the representative of Canada.

109. Mr. SALINAS RIVERA (Chile) regretted that his delegation was not in a position to support the draft resolution owing to certain phrases in it which constituted an implicit and unacceptable criticism of the management and recruitment policy of the Office of the High Commissioner.

110. Mr. PETIT (France) said that his delegation would vote against the draft resolution, which appeared to question the objectivity and impartiality of the Office of the High Commissioner.

111. A vote was taken by roll-call on draft resolution E/CN.4/1999/L.78.

112. Guatemala, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Bangladesh, Bhutan, Botswana, Cape Verde, China, Colombia, Congo, Cuba, Democratic Republic of the Congo, Ecuador, El Salvador, Guatemala, India, Indonesia, Madagascar, Mauritius, Mexico, Morocco, Mozambique, Nepal, Niger, Pakistan, Peru, Philippines, Qatar, Republic of Korea, Rwanda, Senegal, Sri Lanka, Sudan, Tunisia, Uruguay, Venezuela.

Against: Austria, Canada, Chile, Czech Republic, France, Germany, Ireland, Italy, Japan, Latvia, Luxembourg, Norway, Poland, Romania, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Liberia, Russian Federation, South Africa.

113. Draft resolution E/CN.4/1999/L.78 was adopted by 34 votes to 16, with 3 abstentions.

The meeting rose at 1 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 59th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 28 April 1999, at 3.30 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS (continued)

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The meeting was called to order at 4.05 p.m.

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS:

(a) TREATY BODIES

(b) NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS

(c) ADAPTATION AND STRENGTHENING OF THE UNITED NATIONS MACHINERY FOR HUMAN RIGHTS

(agenda item 18) (continued) (E/CN.4/1999/L.82, L.83 and L.87)

Draft resolution on regional arrangements for the promotion and protection of human rights (E/CN.4/1999/L.82)

1. Ms. FOSTIER (Observer for Belgium), introducing the draft resolution on behalf of its sponsors who had been joined by the representative of the Republic of Korea and the observer for Croatia, said that activities to promote and protect human rights at the regional level, together with technical cooperation in the field of human rights, should be mutually reinforcing. The draft resolution was similar to that adopted by the Commission without a vote at its fifty-third session and to one adopted by the General Assembly at its last session.

2. Mr. AGUILAR URBINA (Secretary of the Commission) said that the representatives of Guatemala and Mauritius and the observers for the Republic of Moldova and Togo had become sponsors of the draft resolution.

3. The draft resolution was adopted.

Draft decision on human rights and thematic procedures (E/CN.4/1999/L.83)

4. Mr. SOMOL (Czech Republic), introducing the draft decision, said that it had been agreed that the substance of the perennial item on thematic procedures would not be debated in view of the ongoing discussion of that topic in the context of the rationalization of the Commission's work. The draft decision currently before the Commission was thus a purely procedural one to postpone consideration of the topic to the fifty-sixth session.

5. Mr. FERNÁNDEZ PALACIOS (Cuba) said that his delegation hoped to play an active part in the consideration of thematic procedures at the forthcoming session.

6. The draft decision was adopted.

Draft resolution on national institutions for the promotion and protection of human rights (E/CN.4/1999/L.87)

7. Mr. HEYWARD (Observer for Australia), introducing the draft resolution on behalf of its sponsors, said that it reaffirmed the importance of developing effective, independent and pluralistic institutions which conformed

to the principles governing the status of national institutions annexed to General Assembly resolution 48/134. It welcomed the increased priority which the High Commissioner for Human Rights had accorded to the establishment of such institutions, and called on her Office to strengthen its coordinating role, the necessary resources being allocated for that purpose. It also stressed the importance of the participation of national institutions in United Nations human rights mechanisms.

8. Mr. AGUILAR URBINA (Secretary of the Commission) said that the representatives of Bangladesh, Germany, Morocco and Venezuela, and the observers for Angola, Belarus, Croatia, Israel and Ukraine had become sponsors of the draft resolution.

9. The draft resolution was adopted.

ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (continued) (E/CN.4/1999/L.76, L.77, L.89, L.92 and L.93)

Draft resolution on mainstreaming technical cooperation in all areas of human rights (E/CN.4/1999/L.76)

10. Mr. H.K. SINGH (India), introducing the draft resolution on behalf of its sponsors who had been joined by the representatives of Congo, El Salvador, Nepal, Rwanda and Sri Lanka and the observers for Cameroon, Ethiopia, Gabon, Haiti, Nigeria and Uganda, said that it advocated a promotional approach to human rights. It affirmed that advisory services and technical cooperation, provided at the request of Governments with a view to developing national capacities, should be an effective means of promoting human rights, democracy and the rule of law. In that connection, technical cooperation activities in all areas of human rights should be mainstreamed as an essential element in the promotional approach. More specifically, technical cooperation programmes should support national development goals.

11. His delegation had been disappointed that a number of delegations had refused to take part in substantive discussions on the issue stating that the previous year's resolution 1998/57 had biennialized it. While biennialization could be a useful tool to reduce the Commission's annual workload, it should not be used as a pretext to prevent discussion and consideration of substantive issues and entirely new resolutions. Some donor countries had opted for an obstructive and confrontational approach, because they opposed the efforts of developing countries to promote initiatives that did not directly serve any donor interest or agenda, and had circulated an anonymous position paper urging delegations to vote against the draft resolution. That position paper, which was a blatant attempt to obfuscate and misrepresent the position of the developing countries, was an affront to those countries' capacity to determine their own interests and concerns, and their ability to take decisions for themselves.

12. The promotion and protection of human rights could not be reduced to a crass donor-versus-recipient equation of power, dominance and control; technical cooperation programmes reflected a partnership in which the actual needs and requirements of recipient developing countries were given primacy, rather than donor-imposed preferences.

13. There was nothing unbalanced or judgemental in the draft resolution. Indeed, some of its sponsors were themselves contributors to the Voluntary Fund for Technical Cooperation, yet they firmly believed that the High Commissioner should enjoy the freedom to decide on each advisory services programme in the interest of human rights alone.

14. The draft resolution outlined an approach to advisory service and technical cooperation which had never been covered by past resolutions on the Voluntary Fund. Resolution 1998/57 was a vehicle for exercising donor control over the Voluntary Fund, an entirely separate issue which donors were free to pursue independently. The sponsors hoped that the Commission would adopt the draft resolution without a vote.

15. Mr. HÖYNCK (Germany) said that the draft resolution would have to be put to the vote.

16. Ms. RUBIN (United States of America), speaking in explanation of vote before the voting, said that her delegation was deeply troubled by the effects that the proposed draft resolution could have on future technical cooperation in the field of human rights. The text called for technical cooperation programmes to be grounded in the national development objectives of the countries concerned. The Commission should not prejudge the terms under which countries requested and received technical cooperation. Such restrictions could lead to the loss of valuable financial and technical assistance. Furthermore, the text stated that monitoring operations must progressively shift to a programme for enhancing national capacities, which could have the effect of removing United Nations human rights monitors from countries where they were needed. By its very nature, technical assistance should be a cooperative venture in which donors, recipients and interested countries could all agree. The proposed text would have the opposite effect. Accordingly, her delegation would vote against the draft resolution.

17. Mr. HÖYNCK (Germany), speaking on behalf of the European Union and of the associated countries of Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, said that advisory services and the programme of technical cooperation of the Office of the High Commissioner for Human Rights (OHCHR) had been dealt with in resolution 1998/57. By adopting that resolution without a vote, the Commission had decided to biennialize the issue, in other words to resume consideration thereof at its fifty-sixth session. The sponsors of the draft resolution had participated in the negotiations leading to that agreement.

18. In the absence of any urgent developments necessitating consideration of the issue at the current session, the Union saw no reason to depart from the previous year's decision. At a time when the Commission's workload was steadily increasing, it wished to see the emerging trend of biennialization strengthened, not weakened.

19. Resolution 1998/57 also requested the Secretary-General to present an analytical report on the programme of advisory services and technical cooperation to the Commission at its fifty-sixth session. Since that report was still pending, the sponsors of the draft resolution had failed to explain the usefulness of their endeavour, which seemed to be an attempt to prejudge

the contents and conclusions of the analytical report by providing detailed yet untimely guidance to OHCHR. It was also regrettable that such divisive language should have been used to introduce the draft resolution. In the circumstances, the countries he was representing would vote against it.

20. Mr. SUMI (Japan) said that his delegation was unable to accept certain elements in the draft resolution and would consequently vote against it. In particular, the call to diminish the role of monitoring was unacceptable. Technical cooperation was not a substitute for monitoring; the two operations were complementary. Furthermore, the draft resolution adopted a different approach to the very same issues which had been addressed in the previous year's consensus resolution, thereby leading to a proliferation of resolutions on related themes which might ultimately contradict one another.

21. Ms. CLOVER (United Kingdom), having endorsed the statement made by the representative of Germany on behalf of the European Union, said that partnership was fundamental to the success of advisory services and technical cooperation. Her delegation believed that, albeit unintentionally, the draft resolution would undermine the future of human rights field operations. It sought to dictate to donor countries how funds for technical assistance should be spent, thereby introducing extraneous political elements into the process.

22. Ms. CHATSIS (Canada), also speaking on behalf of the delegation of Norway, said that her delegation would vote against the draft resolution on both procedural and substantive grounds. As had been noted by the representative of Germany, it had been agreed by resolution 1998/57 that consideration of the issue would be deferred until the following year. Circumstances did not warrant any reconsideration of the topic.

23. Paragraphs 4 and 9 attempted to set out a false dichotomy between monitoring and technical assistance and to devalue the former. The two aspects of the High Commissioner's work were complementary. Indeed, the ultimate relevance and credibility of the Commission depended on the objectivity and quality of its fact-finding. Nor could her delegation support the assertion in paragraph 6 that technical cooperation programmes should be grounded in national developmental objectives of the country concerned. International technical cooperation programmes should by definition be grounded in international human rights standards.

24. In addition, micro-management of the High Commissioner's work, as implied by paragraph 13, should be resisted since it did nothing to improve the efficiency and effectiveness of OHCHR and its operations. Lastly, economic and social development and poverty eradication were not prerequisites for the enjoyment of human rights, as paragraph 18 seemed to imply.

25. Mr. STROHAL (Austria), having endorsed the statement made by the representative of Germany on behalf of the European Union, said that the demand for advisory services and technical assistance frequently outstripped supply, thus demonstrating that the programme was working effectively. Partnership was essential not only in providing technical assistance but also when complying with resolutions. The draft resolution was not calculated to promote partnership, and it sought to micro-manage a system that was already functioning effectively.

26. Mr. MALGUINOV (Russian Federation) said that, although his delegation had some reservations about the language of the draft resolution, it would nevertheless vote in favour in order to help countries which required technical assistance in the field of human rights. The draft resolution raised some very important issues for the High Commissioner's work.

27. Mr. SGARBI (Uruguay) said that, although his delegation agreed with many of the points made in the draft resolution, it deemed it preferable to reach consensus on the issue at the forthcoming session on the basis of the analytical report requested by resolution 1998/57. His delegation would therefore abstain from voting.

28. At the request of the delegation of India, a vote was taken by roll-call on the draft resolution on mainstreaming technical cooperation in all areas of human rights (E/CN.4/1999/L.76).

29. Morocco, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Bangladesh, Bhutan, Botswana, China, Congo, Cuba, Democratic Republic of the Congo, Ecuador, El Salvador, India, Indonesia, Liberia, Madagascar, Mauritius, Mexico, Nepal, Niger, Pakistan, Peru, Philippines, Qatar, Russian Federation, Rwanda, Senegal, Sri Lanka, Sudan, Tunisia.

Against: Argentina, Austria, Canada, Chile, Czech Republic, France, Germany, Ireland, Italy, Japan, Latvia, Luxembourg, Norway, Poland, Republic of Korea, Romania, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Cape Verde, Colombia, Guatemala, Morocco, Mozambique, Uruguay, Venezuela.

30. The draft resolution was adopted by 27 votes to 19, with 7 abstentions.

Draft resolution on assistance to States in strengthening the rule of law (E/CN.4/1999/L.77)

31. Mr. BAHADIAN (Observer for Brazil), introducing the draft resolution on behalf of its sponsors, said that much of the language was similar to that of previous resolutions on the subject. He drew particular attention to paragraph 10, in which the Commission encouraged the High Commissioner to continue to explore the possibility of working with financial institutions to obtain technical and financial support. It should also be noted that paragraph 6 incorporated language from General Assembly resolution 53/142, which had had 99 sponsors and had been adopted by consensus.

32. Mr. AGUILAR URBINA (Secretary of the Commission) said that the representatives of Ecuador, Italy, Morocco, Norway, Republic of Korea, and United Kingdom and the observers for Angola, Belarus, Bolivia and Haiti had become sponsors of the draft resolution.

33. The draft resolution was adopted.

Draft resolution on assistance to Somalia in the field of human rights (E/CN.4/1999/L.89)

34. Mr. MORENO (Italy), introducing the draft resolution on behalf of its sponsors, said that the Commission must ensure that human rights issues became a key element in the peace negotiations on Somalia sponsored by the United Nations and other international organizations. While the growing integration of human rights in the programmes of a number of United Nations agencies was welcome, those programmes did not reflect a systematic and comprehensive strategy to increase respect for human rights, but were somewhat fragmented. A global strategy was needed.

35. The draft resolution condemned the widespread violations of human rights and humanitarian law in Somalia and called on all parties to respect international humanitarian law and to work towards a peaceful solution to the crisis in that country. It also requested that the mandate of the independent expert be extended. He hoped that, as in the past, the draft resolution could be adopted without a vote.

36. Mr. AGUILAR URBINA (Secretary of the Commission) said that the representative of Ireland and the observers for Costa Rica and New Zealand had become sponsors of the draft resolution.

37. Mr. COMBA (Office of the High Commissioner for Human Rights) said that, although it was not explicitly stated in the draft resolution, the Commission was requesting an extension of the mandate of the independent expert. Financial provisions in the amount of US$ 55,700 had been made under section 22 of the programme budget for the biennium 1998-1999 to cover the activities of the independent expert, and other requirements relating to the extension of that mandate would be covered by the programme budget for the biennium 2000-2001.

38. The draft resolution was adopted.

Draft resolution on the situation of human rights in Cambodia (E/CN.4/1999/L.92)

39. Mr. AKAO (Japan), introducing the draft resolution on behalf of its sponsors, said that, although Cambodia still faced many difficulties in ensuring respect for human rights, the Cambodian Government was willing to work to improve that situation, affording a good example of the benefits of advisory services and technical cooperation in the field of human rights. The draft resolution welcomed the progress made by the Cambodian Government and urged it to pursue further efforts. It also invited the international community to assist those efforts.

40. The bringing to justice of those Khmer Rouge leaders most responsible for egregious violations of human rights was a key issue that was dealt with in paragraph 14 of the draft resolution.

41. He drew attention to the list of editorial corrections to the draft text that had been circulated to delegations earlier in the day. The sponsors hoped that the draft resolution would contribute to the further promotion and protection of human rights in Cambodia and that it would be adopted without a vote.

42. Mr. AGUILAR URBINA (Secretary of the Commission) said that the representatives of France and Ireland and the observers for Belgium and Israel had become sponsors of the draft resolution.

43. Mr. COMBA (Office of the High Commissioner for Human Rights) said that although it was not explicitly stated in the draft resolution, the Commission was requesting a one-year extension of the mandate of the Special Representative of the Secretary-General. Financial provisions in the amount of US$ 118,000 had been made under section 22 of the programme budget for the biennium 1998-1999, and any further extension of the Special Representative's mandate would be covered by the programme budget for the biennium 2000-2001.

44. The draft resolution was adopted.

45. Ms. RUBIN (United States of America) said she welcomed the adoption by consensus of the draft resolution. Her delegation fully agreed that the Khmer leaders most responsible for the most serious violations of human rights should be brought to justice, and encouraged the Cambodian Government to cooperate with the international community to that end.

Draft resolution on the situation of human rights in Haiti (E/CN.4/1999/L.93)

46. Mr. RODRÍGUEZ CEDEÑO (Venezuela) said that, following consultations among the sponsors, the text of the draft resolution had been revised. In the seventh preambular paragraph, the phrase "caused by the absence of an agreement regarding the status of most parliamentarians" and the words "after 11 January 1999" should be deleted. A new preambular paragraph should be inserted immediately thereafter, which would read "Taking note with interest that the Court of Cassation has agreed to rule soon on the question of the status of parliamentarians and local authorities, which has been pending since 11 January 1999,". The reference to the Organization of African Unity in paragraph 14 of the English version should, of course, be corrected to the Organization of American States. Lastly, Venezuela should appear among the sponsors listed.

47. The text was based on previous resolutions of the Commission and the General Assembly as well as on information contained in the reports of the Secretary-General, his Special Representative for Haiti, the International Civilian Mission to Haiti and the United Nations Civilian Police Mission in Haiti. The text was the result of constructive consultations between the Friends of the Secretary-General on Haiti and the Haitian delegation and reflected the latest developments in the situation in Haiti.

48. Mr. AGUILAR URBINA (Secretary of the Commission) said that the representatives of Japan, Norway and the United States of America and the observers for Brazil, Finland, Israel, Nicaragua and Sweden had become sponsors of the draft resolution.

49. Mr. ANTONIO (Observer for Haiti) said that, while his delegation was not opposed to the changes that had been made to the seventh preambular paragraph of the draft resolution, it did have some reservations regarding the wording of the new preambular paragraph. It was regrettable that, once again, there

was no mention of the restitution to the Haitian authorities of the files of the Front révolutionnaire pour l'avancement et le progrès en Haiti (FRAPH), which were part of the country's national heritage and were vital to the country's efforts to combat impunity. Despite those reservations, however, his delegation was able to support the draft resolution.

50. Mr. COMBA (Office of the High Commissioner for Human Rights) said that, although it was not explicitly stated in the draft resolution, it was understood that the Commission was requesting a one-year extension of the mandate of the independent expert on the situation of human rights in Haiti. Financial provisions in the amount of US$ 75,000 had been included under section 22 of the programme budget for the biennium 1998-1999 to cover the activities of the independent expert, and other requirements relating to the extension of that mandate would be covered by the programme budget for the biennium 2000-2001.

51. The draft resolution, as orally revised, was adopted.

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

(b) HUMAN RIGHTS DEFENDERS

(c) INFORMATION AND EDUCATION

(d) SCIENCE AND ENVIRONMENT

(agenda item 17) (continued) (E/CN.4/1999/L.85)

Draft resolution on human rights and responsibilities (E/CN.4/1999/L.85)

52. Mr. ZAHRAN (Observer for Egypt) said that, although consultations had been held since the draft resolution had been introduced at the previous meeting, further consultations were still required in an effort to reach a consensus. In view of the limited time available, he proposed that the Commission should defer consideration of the draft resolution to its fifty-sixth session.

53. The CHAIRPERSON said she took it that the Commission agreed to the proposal by the observer for Egypt.

54. It was so decided.

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION (agenda item 6) (continued) (E/CN.4/1999/L.60)

Draft resolution on racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1999/L.60)

55. Mr. REYES RODRÍGUEZ (Cuba) recalled that, at the Commission's 55th meeting, his delegation had raised questions regarding the programme budget implications of that draft resolution. He asked whether the Secretariat was in a position to reply to them at the current meeting.

56. Mr. MORJANE (Tunisia) said that it was very important that the Preparatory Committee for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance should get off to a good start. He therefore urged all traditional donors to consider contributing to the budget for the implementation of the draft resolution currently under consideration.

57. Mr. COMRA (Office of the High Commissioner for Human Rights) said that, if the draft resolution was adopted, the High Commissioner would immediately initiate, using extrabudgetary resources, the activities provided for in paragraphs 55, 56, 61, 62 and 63 (b).

58. The draft resolution was adopted.

59. Mr. RAMCHARAN (Deputy High Commissioner for Human Rights) said he regretted the unavoidable absence of the High Commissioner who had hoped to be present at the adoption of the draft resolution because of the importance she attached to the issue. Activities in connection with the Decade were a priority.

60. The High Commissioner had to juggle regular budgetary resources with voluntary contributions. Such contributions would be of great assistance in ensuring the success of the World Conference.

THE RIGHT TO DEVELOPMENT (agenda item 7) (continued) (E/CN.4/1998/L.8)

Draft resolution on the right to development (E/CN.4/1999/L.8)

61. Mr. MONTWEDI (South Africa), introducing the draft resolution on behalf of the Movement of Non-Aligned Countries and China, said that it had become clear during the consultations that more time would be required to secure consensus on certain issues in the original text prepared by the Movement of Non-Aligned Countries which had consequently been withdrawn and replaced by an updating of resolution 1998/72 in order to ensure that the open-ended working group advanced on the basis of consensus.

62. The negotiating spirit that had prevailed during the consultations had been such that the gaps were narrowing and, had it not been for time constraints, it would have been possible to reach consensus on all issues, including the following: studying the question of elaborating a convention on the right to development; the imposition on States of multilateral coercive measures inconsistent with the Charter of the United Nations and/or international law and the consequent impact of such measures on the enjoyment of the right to development; the impact of globalization on the right to development, as well as appropriate policy responses to its challenges at both national and international levels; international cooperation, especially as it related to honouring commitments agreed upon by the developed countries; the use of human rights as a conditionality for loans, aid or trade and the ultimate impact thereof on the realization of the right to development; and the adverse impact of financial crises amongst some of the developing countries on the realization of the right to development.

63. It was hoped that those issues would be included in the programme of the mechanisms established by Commission resolution 1998/72, including the open-ended working group.

64. Over the past 50 years, the concept of development had evolved significantly from its original interpretation, with the focus solely on economic growth. It had come to be understood as a multidimensional undertaking, a people-centred and equitable process. Nevertheless in the 13 years since the adoption of the Declaration on the Right to Development, not much had been registered in terms of measurable steps towards the actual realization of the right.

65. There were two minor changes to the text of the draft resolution: in paragraph 9 the last words should read "resolution 1998/72" and in paragraph 10 the words "and the General Assembly" should be deleted.

66. He requested that his statement should form part of the official documents of the working group.

67. Mr. AGUILAR URBINA (Secretary of the Commission) said that the representatives of Argentina, Austria, Canada, Ecuador, France, Germany, Ireland, Japan and the United Kingdom and the observers for Australia, Brazil, Denmark, Finland, Greece, New Zealand, Nicaragua, Paraguay and Spain had become sponsors of the draft resolution.

68. The draft resolution was adopted.

69. Mr. HÖYNCK (Germany), speaking in explanation of position on behalf of the European Union and the associated countries of Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, expressed satisfaction that it had been possible to re-establish a consensus on the right to development, which had traditionally been one of the benchmark resolutions in the Commission. The delegation of South Africa had done some excellent work on an issue that was as important as it was difficult.

70. At the current session, there had been much broader interest in the right to development than in the past. Nearly 40 States had taken the floor on the subject and delegations from all regions had participated in the elaboration of the draft resolution. The Union regarded that wide participation as an important step forward in the process of reaching a broad-based consensus on the content and scope of the right to development.

71. It was not surprising that many new and complex ideas had emerged. In spite of intense consultations, in good faith on all sides, time had been too short to reach agreement on all issues. Moreover, in the Union's view, some of the issues might be better dealt with in other contexts, while others would be discussed further at the first session of the working group. It had therefore been wise to build on the established consensus to focus clearly on the follow-up mechanism, which had a broad mandate to deal with all the issues relating to the promotion and implementation of the right to development.

72. The Union was confident that the independent expert's report would provide a basis for discussion at the first session of the working group and a framework for the further consideration of other ideas. The Commission's work on the right to development was of crucial importance to efforts by other entities of the United Nations system, States and civil society to make progress towards the realization of that right.

73. He would like his statement also to form part of the official documents of the working group.

74. Mr. AKAO (Japan), speaking also on behalf of the observers for Australia and New Zealand, expressed appreciation at the openness of negotiations on the draft resolution, in which a broad range of delegations had participated. Some areas of agreement had been clarified, while in others further work needed to be done. Time constraints had unfortunately prevented the completion of the deliberations. It had therefore been a correct decision to return to the consensus of the fifty-fourth session.

75. States had the primary responsibility for creating conditions favourable to the realization of the right to development, namely, transparent and accountable governance, including sound economic policies, effective legal frameworks, democratic participation by civil society and the development of strong and independent national institutions. Such issues should be further discussed in the working group, although it was important not to prejudge its conclusions. It was to be hoped that, within the working group, delegations would adopt a multidisciplinary approach, consistent with the Commission's human rights focus.

76. There were a number of issues that needed to be resolved. First of all, with regard to the balance of responsibilities between the categories of countries, the working group should develop a better understanding of the difference between development assistance and the right to development. While developed countries should play an important role in assisting the self-help efforts of developing countries, States had the ultimate responsibility of realizing the right to development for their own people. Secondly, the Governments on whose behalf he was speaking had yet to be convinced that the best way of implementing the Declaration was through the negotiation of a convention. Thirdly, they had reservations about the introduction of macroeconomic concepts in an inappropriate context. If such issues were to be addressed, however, the discussion should also explore the real cause of poverty and the reasons for the different development experience of various countries.

77. Notwithstanding the complexities involved, the three Governments reaffirmed their strong commitment to the right to development and its practical implementation. They had become sponsors of the draft resolution in that spirit. Lastly, he requested that his statement, too, should be included in the report of the working group.

78. Mr. KANAVIN (Norway), speaking also on behalf of the delegation of Canada, said that the right to development had become something of a barometer for the Commission: reaching consensus was an important signal that North and

South could work together to develop understanding and identify measures to implement the right to development; it was gratifying that consensus had been re-established, thus enabling the delegations of Canada and Norway to renew their sponsorship.

79. Despite lengthy negotiations, it had not been possible to complete work on a new text, but the wider participation was encouraging. It was to be hoped that the spirit of cooperation that had prevailed would continue within the working group. There was still much to do to define the scope of the right and to agree on specific steps to be taken.

80. Ms. RUBIN (United States of America) said that, by adopting a text containing an updated version of resolution 1998/72, the members of the Commission had recognized that the forthcoming meeting of the working group was the proper forum for discussing new ideas on the right to development.

81. As the discussions on the topic had demonstrated, there were many possible approaches. For example, her delegation believed that it would be useful to focus the debate on the role of individual freedom in fostering development and the role that transparency, good governance and the effective rule of law played in promoting national growth and prosperity.

82. She therefore hoped that the working group would make a thorough study of the close relationship between economic and social development, on the one hand, and respect for universally recognized human rights and fundamental freedoms, on the other. Comparing successful developing countries with less successful ones, in relation to their protection of human rights and the openness of their economic policies, would prove instructive for the working group.

83. Mr. CHOWDHURY (Bangladesh) said that his delegation appreciated the spirit of goodwill shown in the negotiations, but would have preferred to see a text reflecting more adequately the several key elements enumerated by the representative of South Africa, many of which were contained in the Durban Declaration of the Twelfth Conference of Heads of State or Government of the Non-Aligned Countries and in General Assembly resolution 53/155. The latter specifically requested the Commission to invite the working group to consider the question of elaborating a convention. It was his delegation's understanding that the working group would address that element, among other substantive issues.

84. He requested that his position be fully reflected in the Commission's report and in the background documents to be prepared for the working group.

RIGHTS OF THE CHILD (agenda item 13) (continued) (E/CN.4/1999/L.39 and L.103)

Draft resolution on the rights of the child (E/CN.4/1999/L.39 as revised by E/CN.4/1999/L.103)

85. Mr. HÖYNCK (Germany), introducing the draft resolution on behalf of its sponsors, said that, despite the universal commitment to the Convention on the Rights of the Child, those rights were still far from being fully implemented.

The draft resolution reflected the progress made and the steps that should be taken. It stressed that cooperation among all the actors was crucial and that global standards had to be raised and strengthened. In that context, the sponsors were strongly committed to the aim of finalizing the work on the two optional protocols to the Convention, which would open up new avenues for action. He also drew attention to the renewed sections on child labour and the right of the child to health and education.

The meeting rose at 6.05 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 60th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 28 April 1999, at 6 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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ORGANIZATION OF THE WORK OF THE SESSION (continued)

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GE.99-13376 (E)

The meeting was called to order at 6.05 p.m.

RIGHTS OF THE CHILD (agenda item 13) (continued) (E/CN.4/1999/L.39 and 103; E/CN.4/1999/4-E/CN.4/Sub.2/1998/45, chap. I, draft decision 3)

Draft resolution on the rights of the child (E/CN.4/1999/L.39 and 103)

1. The CHAIRPERSON recalled that the draft resolution had been introduced at the end of the previous meeting.

2. Mr. AGUILAR URBINA (Secretary of the Commission) said that the observers for Côte d'Ivoire, Georgia, Monaco, Saudi Arabia and Togo had become sponsors of the draft resolution.

3. Mr. COMBA (Office of the High Commissioner for Human Rights) said, in relation to the decision contained in paragraph 13 (b) (iii), that provision for substantive and conference service requirements had been included under the programme budget for the current biennium. As for the decision contained in paragraph 8, financial provision of approximately US$ 24,000 for 1999 had been included under the programme budget for the current biennium and US$ 39,000 under the proposed programme budget for the biennium 2000-2001.

4. Draft resolution E/CN.4/1999/L.39, as amended by document E/CN.4/1999/L.103, was adopted.

5. The CHAIRPERSON noted that Sub-Commission draft decision 3, contained in document E/CN.4/1999/4-E/CN.4/Sub.2/1998/45, chapter I, B.3, had been superseded by the draft resolution.

6. Ms. HERNÁNDEZ CUESADA (Cuba) said it was regrettable that Sub-Commission draft decision 3 had not been adopted separately, since its scope extended beyond the confines of agenda item 13.

7. Ms. RUBIN (United States of America), speaking in explanation of her delegation's position, said it had felt unable to be a sponsor of the draft resolution owing to the ambiguous language regarding the question of child soldiers: the text could be read as an attempt to prejudge the outcome both of the working group on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts and of International Labour Organization negotiations on the proposed convention on the worst forms of child labour. More emphasis should have been laid on meeting existing standards - article 77 of Protocol I of the Geneva Conventions and article 38 of the Convention on the Rights of the Child - at the same time as attempting to establish new standards. As for the general call for the withdrawal of reservations, it was clear from article 51 of the Convention on the Rights of the Child and from the Vienna Convention on the Law of Treaties that reservations to a treaty were acceptable if they were not incompatible with the object and purpose of the treaty.

8. Her delegation also dissociated itself from the heading to section VI; it did not correspond with the careful wording of the ensuing text, which spoke of the abolition of child labour "contrary to accepted international standards". Many Governments, including her own, allowed children to work in certain carefully circumscribed circumstances, but the heading of section VI made no allowance for such circumstances.

9. She endorsed the view that juvenile offenders should be treated with dignity. Her Government did so, in conformity with its commitments under the International Covenant on Civil and Political Rights.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

(a) REPORT AND DRAFT DECISIONS

(b) ELECTION OF MEMBERS (agenda item 16) (continued) (E/CN.4/1999/L.67/Rev.1)

Draft resolution on the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1999/L.67/Rev.1)

10. Mr. VAN RIJSSEN (Observer for the Netherlands), introducing the draft resolution, said that the original version had contained some modest elements intended to strengthen the emphasis on the need to reinforce the independence of the Sub-Commission's membership, without any attempt to pre-empt the full and open debate on the Sub-Commission's place as a part of the human rights machinery. Some delegations had nonetheless pointed out that even the modest proposals made by his delegation could influence the more comprehensive debate and his delegation had therefore redefined its aspirations, although its commitment to the guidelines on the independence of the membership of the Sub-Commission remained as strong as ever. In a year when it was of the utmost importance to maintain agreement on the many difficult issues ahead, his delegation had decided to make the adoption of the draft resolution as unproblematic as possible.

11. Mr. AGUILAR URBINA (Secretary of the Commission) said that the delegations of France, the Russian Federation and the United States of America and the observer for The former Yugoslav Republic of Macedonia had become sponsors of the draft resolution.

12. Mr. COMBA (Office of the High Commissioner for Human Rights) said that provision for substantive services and conference services, in accordance with paragraph 9, had been included in the programme budget for the 1998-1999 biennium.

13. The draft resolution was adopted.

ORGANIZATION OF THE WORK OF THE COMMISSION (agenda item 3) (continued)

Draft decision on the organization of the work of the fifty-sixth session of the Commission

14. The CHAIRPERSON suggested that the Commission might wish to adopt the following draft decision:

"At its 60th meeting, on 28 April 1999, the Commission on Human Rights, taking note of Economic and Social Council decision 1994/297 of 29 July 1994 and bearing in mind Council decision 1995/296 of 25 July 1995, decided, without a vote, that the fifty-sixth session of the Commission should be scheduled to take place from 20 March to 28 April 2000."

15. The draft decision was adopted.

Organization of the work of the fifty-sixth session of the Commission

16. The CHAIRPERSON suggested that the Commission might wish to adopt the following draft decision:

"At its 60th meeting, on 28 April 1999, the Commission on Human Rights, taking into account its heavy schedule of work, as well as the need to give adequate consideration to all the items on its agenda, and recalling that in previous years the Economic and Social Council had approved the Commission's requests for additional meetings for its thirty-seventh to fifty-fifth sessions, decided; without a vote:

(a) To recommend to the Economic and Social Council that it authorize, if possible within existing financial resources, 30 fully serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Economic and Social Council, for the Commission's fifty-sixth session;

(b) To request the Chairperson of the Commission at its fifty-sixth session to make every effort to organize the work of the session within the times normally allotted, so that the additional meetings that the Economic and Social Council might authorize would be utilized only if they proved to be absolutely necessary."

17. The draft decision was adopted.

The meeting rose at 6.20 p.m.

UNITED
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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 61st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 29 April 1999, at 11.30 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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CONSIDERATION OF DRAFT RESOLUTIONS RELATING TO AGENDA ITEM 6 (continued)

RATIONALIZATION OF THE WORK OF THE COMMISSION (continued)

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GE.99-13330 (E)

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The meeting was called to order at 11.30 a.m.

CONSIDERATION OF DRAFT RESOLUTIONS RELATING TO AGENDA ITEM 6 (continued)

Draft resolution E/CN.4/1999/L.40 (Defamation of Islam)

Proposed amendments to draft resolution E/CN.4/1999/L.40 (E/CN.4/1999/L.90)
Sub-amendments to the amendments to draft resolution E/CN.4/1999/L.40 contained in document E/CN.4/1999/L.90 (E/CN.4/1999/L.104)

1. Mr. AKRAM (Pakistan), introducing draft resolution E/CN.4/1999/L.40 on behalf of the States Members of the United Nations that were members of the Organization of the Islamic Conference, said that, in the past few years, there had been new manifestations of intolerance and misunderstanding, not to say hatred, of Islam and Muslims in various parts of the world. It was to be feared that those manifestations might become as widespread and endemic as antisemitism had been in the past. There was a tendency in some countries and in the international media to portray Islam as a religion hostile to human rights, threatening to the Western world and associated with terrorism and violence, whereas, with the Quran, Islam had given the world its first human rights charter. No other religion received such constant negative media coverage. That defamation campaign was reflected in growing intolerance towards Muslims.

2. The Commission on Human Rights had to stand up against that campaign. Efforts had already been made to promote better understanding of Islam when OIC and the Office of the High Commissioner had organized a seminar on Islamic perspectives on the Universal Declaration of Human Rights in November 1998. The draft resolution under consideration had been the subject of open-ended consultations and its sponsors had shown a willingness to cooperate by agreeing to make several amendments. They had, for example, decided that the words "in certain countries" should be added to operative paragraph 1 and the fifth preambular paragraph in order to take account of the legitimate view that the problem was not universal. His delegation sincerely hoped that the draft resolution could thus be adopted by consensus.

3. Mr. HÖYNCK (Germany), introducing document E/CN.4/1999/L.90 on behalf of the sponsors, which had been joined by the Czech Republic, Latvia, Norway and Poland, said that, although his delegation understood some of the concerns which had led the sponsors of draft resolution E/CN.4/1999/L.40 to submit that text, it was of the opinion that the draft resolution's overall design was not balanced, since it referred exclusively to the negative stereotyping of Islam, whereas other religions had been and continued to be subjected to various forms of discrimination, intolerance and even persecution. The European Union was attached to the principles of tolerance and freedom of conscience, thought and religion for all. The amendments proposed in document E/CN.4/1999/L.90 were designed precisely to broaden the issue and deal equally with all religions. They would, for example, involve amending the title of the draft resolution and the fifth preambular paragraph and replacing the last part of paragraph 1 and part of paragraph 5 by a general reference to negative religious stereotyping.

4. Mr. SINGH (India) said that India was opposed to any kind of discrimination, including on grounds of religion. It was a country where all religions were represented and it had the second largest Muslim population in the world. It was categorically opposed to any defamation or negative stereotyping of any religion, including Islam. It was moreover seriously concerned about the attempts being made to associate Islam with terrorism. It had long-standing ties of friendship and cooperation with Iran, as the OIC countries which had submitted the draft resolution.

5. As a secular State, however, India stressed first that the matter under consideration belonged under agenda item 12 (Civil and political rights), subitem (a) (Religious intolerance), not under the item on racism. Secondly, the best way to combat defamation and negative stereotyping was to promote tolerance and strengthen legislation. Thirdly, manifestations of discrimination based on religion were prevalent everywhere in the world and were not directed at Islam alone. For all those reasons, India was opposed to draft resolution E/CN.4/1999/L.40. It would be prepared to support the amendments contained in document E/CN.4/1999/L.104, provided that the words "in their respective national contexts" were added at the end of the amended preambular paragraph 6, after the words "minority religions". The concept of "minority" or "majority" religion must necessarily be considered in the context of each country.

6. Mr. SUMI (Japan) said that he understood the concerns of the sponsors of draft resolution E/CN.4/1999/L.40. But the problem they wanted to denounce did not relate only to Islam. Amendments should therefore be made to the text submitted so that it might be adopted by consensus. In view of the subject matter of the draft resolution, the fact of voting on the text might give the impression that the international community did not share the sponsors' concerns and that might further strengthen the prejudices they were trying to combat. In any event, his delegation would have liked the draft resolution to be worded in more general terms. It would also have been better to deal with it under agenda item 11 on the question of religious intolerance.

7. Mr. AKRAM (Pakistan), introducing the proposed sub-amendments contained in document E/CN.4/1999/L.104 and explaining the position of the member countries of the Islamic Conference, said that the problem faced by Islam was of a very special nature and its manifestations took many forms. Some people did not hesitate, for example, to refer to an "Islamic bomb", but no one would ever think of making such an association with another religion. Islam was being portrayed as a threat to the international system, with many negative images which incited to hatred of Muslims. That phenomenon endangered world stability and was contrary to the principle of the universality of human rights.

8. The amendments submitted by Germany were designed to remove most of the specific references to Islam contained in the draft resolution, but that would defeat the purpose of the text, which was to bring a problem relating specifically to that religion to the attention of the international community. The States which had submitted the draft resolution could therefore not agree to the proposed amendments. They appealed to Germany and the other co-sponsors of the amendments to withdraw them.

22. The Commission had agreed that the 1503 procedure had to be overhauled and the inter-sessional Working Group was invited to submit recommendations for that purpose at the fifty-sixth session, taking account of the detailed suggestions contained in the Bureau report (recommendation 11).

23. The Commission, which valued the distinctive role of the Sub-Commission, considered that it too was in need of thorough review and, as a first step, was recommending to the Economic and Social Council an immediate change of title to "Sub-Commission on the Promotion and Protection of Human Rights". The Commission requested the inter-sessional Working Group to draw up recommendations for submission at the fifty-sixth session, taking account of recommendation 12.

24. The Commission had taken note of recommendation 13, which identified a number of important issues, including laying the groundwork for standard-setting working groups and establishing time-frames and decision-making methods. The role of the chairpersons of such groups had to be defined. The Commission requested the Working Group to formulate a recommendation on that question for consideration at the fifty-sixth session.

25. In conclusion, the Commission once again emphasized that it wanted to be able to mark its next session with the adoption of a coherent and substantial set of measures aimed at enhancing its effectiveness.

26. Mr. ARSHAD (Pakistan), speaking on behalf of the like-minded group of countries, said that the statement which the Chairperson had just read out was an attempt to bridge the gap in the Commission on the question of the report of the Bureau on the Commission's fifty-fourth session (E/CN.4/1999/104). Although the statement was not entirely satisfactory, Pakistan and the like-minded group could live with it in order to ensure that a detailed and comprehensive examination of all the issues contained in the Bureau's report would take place in the inter-sessional Working Group.

27. Pakistan attached particular importance to certain basic issues, particularly the scope and methods of work of the inter-sessional Working Group. In the first place, it wanted the Working Group also to consider the working methods of the Commission. Secondly, it was clear that the consensus requirement meant that no delegation would vote against any proposal. Thirdly, the comprehensive review of the Bureau's report also implied that all aspects referred to by the Bureau in its report would be examined, i.e. recommendations, proposals and observations. Although the statement by the Chairperson listed all the points on which the Working Group should focus during the preparation of its recommendations, Pakistan pointed out that the list would not determine priorities. Lastly, the adoption of what the Chairperson had called "coherent and substantial measures" implied that all issues were interconnected and must be dealt with in a holistic way.

28. On that basis, Pakistan and the like-minded group would not press for a vote on draft resolution E/CN.4/1999/L.64/Rev.1.

29. Mr. BENITEZ (Argentina), speaking on behalf of the 56 sponsors of draft resolution E/CN.4/1999/L.101, said that he supported the statement by the Chairperson. That statement, which was a compromise for which all delegations

had worked, was a key step forward in the rationalization of the Commission's work and should enable it to continue with the process it had begun. Argentina hoped that the Working Group would adopt the same constructive approach and be as flexible as the members of the Commission and that specific results would be achieved during the coming year.

30. Argentina would also like the inter-sessional Working Group to work in close cooperation with all Commission mechanisms and non-governmental organizations.

31. Mr. HÖYCK (Germany) said that he was both disappointed that all the concerns expressed by the members of the Commission had not been taken into account in the statement by the Chairperson and relieved that it had finally been possible to adopt a text that was acceptable to all. His country fully understood Pakistan's point of view, but was of the opinion that, for the sake of the Working Group, the statement that the Commission had just adopted should not be interpreted, at least not at present.

32. Mr. ALFONSO MARTINEZ (Cuba) said that, like others, his delegation was satisfied with the text whose adoption had been possible only because all States had demonstrated the willingness to compromise and had adopted a consensual approach.

33. He drew the Argentine delegation's attention to the fact that Cuba was not a sponsor of draft resolution E/CN.4/1999/L.101. Cuba was not, however, opposed to the review of Commission mechanisms, but simply to review for review's sake, an exercise which might deadlock the Commission and create more problems than already existed.

34. The CHAIRPERSON invited the Commission to resume its consideration of agenda item 6. She requested the delegations concerned to inform the Commission of the progress made in the consultations on the draft resolution entitled "Defamation of Islam" (E/CN.4/1999/L.40).

35. Mr. AKRAM (Pakistan) said that the consultations on that draft resolution had been very successful and that progress had been made on thorny issues. A new document would therefore be prepared and Pakistan sincerely hoped that it would be satisfactory to all. It would, however, have to be discussed at a forthcoming meeting.

The meeting rose at 1 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 62nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 April 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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DRAFT RESOLUTIONS UNDER AGENDA ITEM 8 (continued)

ORGANIZATION OF THE WORK OF THE SESSION (continued)

DRAFT PROVISIONAL AGENDA FOR THE FIFTY-SIXTH SESSION OF THE COMMISSION

REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FIFTY-FIFTH SESSION OF THE COMMISSION

CLOSURE OF THE SESSION

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GE.99-13180 (E)

The meeting was called to order at [illegible]

DRAFT RESOLUTIONS CONTAINED UNDER AGENDA ITEM 4 (continued)

Draft resolution E/CN.4/1998/L.[illegible]: Independence of judges and lawyers

Mr. ARSANJANI [Observer, Human Rights Internet] said that, despite the progress in between the signature of draft resolution E/CN.4/1998/L.[illegible] and the presentation of document E/CN.4/1998/L.[illegible], the text of which he had just received, a number of issues had been raised under the heading of the right to a fair trial. While the thrust of the draft was the protection of all persons from arbitrary detention, it failed to address the question of the independence of the judiciary and lawyers in relation to the protection of the human rights of the accused. Furthermore, in the face of the fact that Islam was recognized as and actually constituted multifarious religious and cultural aspects of the life of the Muslim people, the draft resolution made no reference to the Islamic concept of fair trial and guarantees and did not even mention the Islamic Shariah. The delegation of the Organization of the Islamic Conference (OIC) was unable to accept the draft resolution in its present form.

Mr. [illegible] (Observer for Pakistan) said that the draft resolution was a welcome initiative and that his delegation was prepared to join in the consensus on it. However, it was important to maintain a balance between the rights of the accused and the rights of the victims of crime. Accordingly, his delegation would like to see a reference to the right to a fair trial in paragraph [illegible] of the draft resolution. Also, his delegation would like to see a reference to the Islamic Shariah in the preambular part of the draft resolution. Lastly, his delegation would like to see a reference to the Universal Declaration of Human Rights in paragraph [illegible] of the draft resolution.

Mr. [illegible] (Observer for Egypt) said that his delegation had not had time to examine carefully the new draft before the Commission. While different perspectives from the original version. His delegation welcomed the fact that the draft took into account the comments of the various Governments, including those of the European Union, and the organization of the Islamic Conference should be in a position to join in a consensus decision on the draft. Emphasizing the lack of transparency which had characterized the negotiations, and noting that the new draft did not fully reflect the views of the Islamic group, his delegation had reserved the right to call for the draft to be submitted to a vote. It was hoped that the Commission would proceed in the same way in the future and that fully open meetings of the Commission.

Mr. [illegible] (Observer for Egypt) said that the consultations which had taken place had been open to all delegations.

Mr. [illegible] (Observer for United Arab Emirates) said that, thanks to the cooperation of the delegations of the Arabic and the organization of all concerned, the difficulties had been resolved. Islamic was a country most of whose inhabitants were human rights, but rather all the world's great religions were practiced there and the Constitution guaranteed freedom of conscience and religious [illegible]. He warmly thanked the OIC countries [illegible] at the negative attempt going to Islam and stressed the need to promote religious tolerance and eliminate [illegible] with a view to promoting international understanding and avoiding a "clash of civilizations". He was glad that the wording of [illegible] and felt that

[illegible] which were rooted in religious extremism, affected all religions. The new draft reflected the concerns of all parties, and he hoped that it would be adopted by consensus.

3. Mr. LAMAH (Chile) congratulated the delegations which had contributed to the success of the consultations. In his country the principle of separation of Church and State was guaranteed and religious freedom was respected. The successive flows of immigrants who had entered the country had become harmoniously integrated in the national fabric, and their contributions, including in particular that of the Islamic community, had enriched the cultural heritage. All forms of intolerance, especially religious, represented a threat to national peace and security, and every State was called upon to take measures to combat the phenomenon. His delegation shared the EU country's view on various instances of non-tolerance against Israel and wholeheartedly supported draft resolution E/CN.4/[illegible] as a [illegible].

4. Mr. CHEN Yuanlai (China) said that paragraph 3 of the draft decided the High Commissioner to consider the holding of seminars to promote a dialogue between cultures, and that there no provision to that end was included in the programme budget for 1998-1999. In view of the proposed programme budget for 2000-2001, such activities would be funded from extrabudgetary resources which might not be made available for that purpose.

5. Draft resolution E/CN.4/1999/L.[illegible], as orally amended, was adopted without a vote.

6. Mr. STUERZ (Germany), speaking on behalf of the States members of the European Union and of the co-sponsors of the draft amendments in document E/CN.4/1999/L.91, expressed satisfaction that a decision without a vote had finally become possible and thanked the EU countries and other delegations for their cooperation in producing a compromise text. The last minute agreement reached should not, however, hide the fact that a high degree of uncertainty remained as to the expediency of the Commission's continuing to deal with the issue in that way and in that context. Thorough discussions on that subject were called for, and he was pleased to hear that the EU countries were favourable to the idea. The draft which had been adopted should not be allowed to remain a dead letter. All States should endeavour to ensure that no religion was invoked as a pretext for violating human rights or conducting terrorist activities. While joining the consensus on the draft, the Member States of the European Union wished to make it clear that they did not attach any legal meaning to the term "defamation" as used in the title.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 1) (continued)
(E/CN.4/1999/1 and 101; E/CN.4/1999/CRP.4)

Question of Kosovo

7. Mr. ROBINSON (United Nations High Commissioner for Human Rights), reporting on the situation concerning Kosovo, having recalled the origins and development of the conflict, said that some facts were beyond dispute: over half a million people had fled Kosovo into neighbouring countries; thousands of people were internally displaced inside Kosovo, numerous women and children had reached refuge outside Kosovo separated from their family, whose

justice and accountability would be a crucial element of any progress towards peace, reconstruction and reconciliation. UNHCR, for its part, would continue to fulfil its task of protecting the refugees and, in due course, helping them to return home.

DRAFT PROVISIONAL AGENDA FOR THE FIFTY-SIXTH SESSION OF THE COMMISSION (agenda item 21 (a) (E/CN.4/1999/L.1)

19. The CHAIRPERSON drew attention to the draft provisional agenda for the fifty-sixth session of the Commission (E/CN.4/1999/L.1), which contained the list of documents relating to each agenda item. If there were no objections, she would take it that the Commission wished to take note of the document.

20. It was so decided.

REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FIFTY-FIFTH SESSION OF THE COMMISSION (agenda item 21 (a); E/CN.4/1999/L.11 and Addenda; E/CN.4/1999/L.11 and Addenda)

21. Mr. CHAITIL (Vanuatu), Rapporteur, introducing the draft report of the Commission on the work of its fifty-fifth session, said that it was composed of two parts. The first (E/CN.4/1999/L.11 and Add.1-7) was a compilation of the 62 resolutions and 21 decisions adopted by the Commission. The second (E/CN.4/1999/L.11 and Add.8-17) contained a description of the work of the Commission and, in particular, of the general debate and of the voting on resolutions and decisions under various agenda items. It also included the texts of four statements made by the Chairperson. In order to make the report more readable, the contents of the adopted texts were presented in the form of a synoptic table which would eventually appear as annex I to the report. For the present, the table was issued under the symbol E/CN.4/1999/WG.1/L.1.

22. The Commission's report was essentially concerned with the technical aspects of the work of the session. All substantive issues of the Vienna Declaration and Programme of Action relevant to the mandate of the Commission pursuant to General Assembly resolution 48/141 and the Secretary-General's report (E/CN.4/1999/28 and Corr.1) were dealt with in chapter II, containing resolutions and decisions adopted by the Commission. Chapter I contained draft resolutions and draft decisions recommended for adoption by the Economic and Social Council, while chapter II, containing resolutions and decisions adopted by the Commission, would be available for examination at the next session of the Council in July 1999. Lastly, it should be recalled that Governments had a week in which to make corrections to document E/CN.4/1999/L.11 and addenda and to draft annex I to the report.

23. The CHAIRPERSON said that, as at previous sessions, the draft report would be adopted ad referendum, it being understood that the definitive version would be prepared by the Rapporteur with the assistance of the Secretariat. If she heard no objection, she would take it that the Commission agreed to that procedure.

24. It was so decided.

[illegible]

[illegible] Ms. ROBINSON (United Nations High Commissioner for Human Rights) said that the results achieved during the session had dissipated what worries she might have had at the start. The international community had reacted [illegible] to the appalling situation in Kosovo by adopting resolutions condemning massive violations of human rights, promptly sending human rights envoys to the area and beginning human rights monitoring there. She had provided the Commission with four weekly reports on human rights violations in Kosovo. She would continue to monitor the situation, to gather and verify information and to report periodically to the Commission. In that connection, she regretted that she would shortly be travelling to the region in order to make a first-hand appraisal of the human rights situation and to assess the possibilities of monitoring activities. If the need arose, she would consult the Bureau about the possibility of holding an emergency session of the Commission.

[illegible] The Commission had shown that when gross violations of human rights occurred, it could play its part in upholding justice and ensuring that those responsible for such violations did not go unpunished. The session had also been marked by a number of other noteworthy developments. For the first time in several years, the Commission had decided to take a country situation out of the confidential procedure and had made that situation the subject of its first resolution under the open procedure. She, for her part, had been very preoccupied by the situation in Sierra Leone and intended making a visit there in June 1999.

[illegible] The Commission had also made important progress in preparing for the World Conference on Racism. It had continued to insist on the indivisible and interdependent relationship between civil and political rights and economic, social and cultural rights. She too was determined to play her part in pursuing an integrated approach to human rights and in that spirit, working together with the independent expert on the right to development, had arranged to assemble at Geneva on 10 and 11 May a group of thinkers to advise on the most effective ways of promoting that right. The Commission's debate on children had demonstrated a resolve to ensure the universal implementation of the provisions of the Convention on the Rights of the Child.

[illegible] The participants in the first Hague Peace Conference in 1899 had wanted to build a world in which suffering from war would be lessened. A hundred years later, despite the progress made in the codification and development of international law and the establishment of numerous courts and similar institutions to entrench the principles of legality and justice at the national and international levels, civilian populations, including women and children, were being increasingly targeted in conflicts. In that context, the work of the Commission's Special Rapporteurs and Working Groups, its debates on particular situations and the field presences of the Office of the High Commissioner took on special meaning.

[illegible] The adoption of the Declaration on Human Rights Defenders had been one of the great achievements to mark the fiftieth anniversary of the Universal Declaration of Human Rights. For the time being, the best way in which all States could demonstrate the importance they attached to the Declaration was

by ensuring that members of non-governmental organizations (NGOs) who had come to bring certain situations to the Commission's attention would be able to return home and continue their work in safety.

30. The increasing participation of representatives of national human rights institutions in the work of the Commission was particularly encouraging as evidence of the growing awareness in different regions of the world of the benefits to be derived from partnership and cooperation in the human rights field. The Commission was increasingly taking on the characteristics of a global assembly of Governments, national institutions and NGOs. The adoption of a resolution on the development and enhancement of regional and subregional cooperation was particularly welcome. The current session had made it clear that international cooperation for capacity-building at the national level was a cornerstone of the human rights endeavour. Her Office shared that view and would spare no effort to fulfil the tasks assigned to it in that field. The importance it attached to the matter was demonstrated by the record number of technical cooperation projects it had initiated over the past year.

31. Lastly, she welcomed the adoption of the resolution on strengthening the Office of the High Commissioner and was also pleased by the consensus achieved on enhancing the effectiveness of the mechanisms of the Commission. It was to be hoped that the international community would continue to be guided by a shared sense of purpose and determination to contribute tangibly towards the promotion and protection of the rights of children, women and men across the globe.

32. The CHAIRPERSON said that, the fifty-fifth session of the Commission, like all other sessions, had been a difficult exercise, some members having to accept decisions with which they disagreed and others having to see no action taken on causes close to their hearts. Once again, the breadth and depth of human misery and the gap between standards and reality, between the need for action and the capacity to act, had been made evident to everyone.

33. The Commission's work on country situations had been particularly sensitive; the discussion on review of mechanisms had thrown into relief some sharply differing views about the direction its future work should take. On Kosovo, the Commission had faced up to its responsibilities by devoting a special debate to the question and by adopting three resolutions and hearing weekly updates on the situation from the High Commissioner on Human Rights. It was reassuring, especially to those concerned about the danger of fossilization of the Commission's work, to note that the resolutions adopted reflected evolving situations, be they positive or negative. On the question of review of mechanisms, consensus had been found in the form of an open-ended intersessional working group.

34. Statistics prepared by the Secretariat showed that 37 visiting dignitaries, most of them at ministerial level, had addressed the session, a fact which demonstrated the significance attached to the Commission, and that 82 resolutions had been adopted, including 58 by consensus. What mattered now was to put those resolutions into practice. The new agenda of the Commission had proved a success and substantial progress had been achieved in connection with a number of agenda items, in particular by the working group set up to formulate proposals for the World Conference on Racism. Among

the Participants in the session who also noted the address by the Secretary-General, the dialogue on the rights of the child, the panel on the rights of women and the input received from several regional and national human rights institutions.

11. The Head considered the Commission's role with regard to and with the assistance in cases of human rights violations around the world. She had had a number of meetings with non-governmental, many of whom had travelled from afar at considerable expense. Several of them had expressed frustration at the end of the session and had raised questions concerning transparency, the role of the rapporteur and the merits of participating within the Commission. She was convinced that if the value of the NGOs was to continue to be shared fully and freely in the Commission, the question of time management would have to be reviewed. In particular, the small number of NGOs who made presentations in the open session under a very tight time limit to address issues that could be important to a large number of organizations with different representations.

12. The Special Rapporteurs and independent experts were doing an extremely important service for the international community. The Commission on the Rights which had appointed them was rightly keen to ensure the basic integrity of it and challenged when its basic safety standards were threatened, and to seek a solution to the dilemma between the importance of their task and the resources available to support them. Their participation in the work could certainly bear improvement, with a few exceptions, they had made very limited reports to the Commission. It was to be hoped that the meeting with an increased number of mechanisms would increase the quality of dialogue with the Commission.

13. Turning to the Government, she said that they certainly had responsibility to maintain the basic principles of international human rights. They had not been guilty, despite the assertions that had sometimes been made, of using human rights as a political weapon. Nor had they been accused in the course of the session of a misuse of human rights for political purposes. Universal acceptance of principles of human rights.

14. Among those who had participated actively in the session, she wished particularly to thank the representatives of the United Nations Human Rights Commissioner and Deputy High Commissioner for Human Rights, and the staff of the High Commissioner's office, the conference services and the press. In view of the resource-related questions of many human rights activities, she had decided not to offer the Government hospitality by the Chair and, instead, to contribute the Nobel Peace Prize allocated to her authorities for that purpose to the United Nations Trust Fund for the Implementation of the Convention on the Rights of the Child. The contribution would appear as a donation in the name of all participants in the session.

15. In conclusion, recalling that in her opening statement she had expressed the hope that the Commission would "take responsibility", she said that in many respects she believed it had done so in adopting many resolutions, in finding a compromise outcome on review of mechanisms and in trying to shape a response to outside developments taking place during the session. In other respects, the answer was more reassured. Thus, she still felt the lack of a convincing answer to charges of selectivity on the part of the Commission. It

was necessary to make sure that the moral outrage provoked by the Kosovo crisis did not become blunted when other conflicts arose in other parts of the world. Neither should the Commission forget the disappointment felt by those who, believing in the justice of their cause, felt that the Commission had failed them. Be that as it might, and notwithstanding all human and institutional shortcomings, it would be a mistake to minimize the work done during the past six weeks and to underrate the collective impact of the Commission's debates and resolutions, for every step on the human rights road, however modest, was important. For her part, she felt truly privileged to have participated in that worthy endeavour.

40. After the customary exchange of courtesies, the CHAIRPERSON declared the fifty-fifth session of the Commission on Human Rights closed.

The meeting rose at 12.10 p.m.